SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/12/11

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 11491534 Patent No.: RE42533

CofC mailroom date: 12/02/11

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 be made in the Title?**

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

Jacob Choi
Supervisory Patent Examiner
Technology Center 2800

2821

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
NOV 15 2010
OFFICE OF PETITIONS

KENNAMETAL INC.
INTELLECTUAL PROPERTY DEPARTMENT
P.O. BOX 231
1600 TECHNOLOGY WAY
LATROBE PA 15650

In re Application of :
Karthikeyan SAMPATH et al. :
Application No. 11/491,637 : DECISION ON PETITION
Filed: July 24, 2006 :
Attorney Docket No. K-2407 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 24, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 26, 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 Notice of Appeal; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of February 24, 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 3726 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PETER J. RASHID**
5111 MOUNTAIN ROAD
SUITE 140
BRIGHTON, MI 48116

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 11,2011

DECISION ON PETITION

In re Application of :

Frank Toppo

Application No : 11491718

Filed : 24-Jul-2006

Attorney Docket No : 5125-001

This is an electronic decision on the petition, filed October 11,2011 ,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 Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED.**

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on

07-23-2007

However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:
(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) 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 will be viewable in Private PAIR within one (1) business day.

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

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/64a U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING UNDER 37 CFR 1.137(f)**
Application Number	11491718
Filing Date	24-Jul-2006
First Named Inventor	Frank Toppo
Art Unit	1628
Examiner Name	JENNIFER KIM
Attorney Docket Number	5125-001
Title	Method for prevention and treatment of Alzheimers

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b).

A grantable petition requires the following items:
(1) Petition fee;
(2) Reply;
(3) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

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

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

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

☒ Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requries publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is 07-23-2007

☒ The non-publication request has been filed on 24-Jul-2006

☒ STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice 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	/Benjamin J. Hauptman/
Name	Benjamin Hauptman
Registration Number	29310

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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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

MAILED

DEC 22 2011

OFFICE OF PETITIONS

In re Application of
Frank Toppo
Application No. 11/491,718
Filed: July 24, 2006
Attorney Docket No.. 5125-001

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 7, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by inventor Frank Toppo, attesting to his/her age. The above-identified application has been accorded "special" status.

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

The application is being forwarded to Technology Center 1628 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JAN 19 2011

OFFICE OF PETITIONS

CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON, TX 77010

In re Patent No. 7,621,343	: DECISION ON REQUEST
Chen, et al.	: FOR
Issue Date: November 24, 2009	: RECONSIDERATION OF
Application No. 11/491,738	: PATENT TERM ADJUSTMENT
Filed: July 24, 2006	: and
Atty Docket No. SPERRY SUN-209-3	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 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 forty-eight (148) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred forty-eight (148) days is **GRANTED.**

The Office acknowledges receipt 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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred forty-eight (148) 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 : 7,621,343 B2

DATED : Nov. 24, 2009

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 (25) days

Delete the phrase "by 25 days" and insert – by 148 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 29 2011

OFFICE OF PETITIONS

Wyeth LLC/MH2 Technology Law Group, LLP
1951 Kidwell Drive
Suite 550
Tysons Corner VA 22181

In re Patent No. 7,846,652 :
Issue Date: December 7, 2010 :
Application No. 11/491,761 : ON PETITION
Filed: July 24, 2006 :
Attorney Docket No. WYT-111-02 :

This is a decision on the request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is DISMISSED.

Petitioner requests issuance of a certificate of correction in the name of "Wyeth LLC."

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

The instant request is not supported by the U.S. Patent and Trademark Office assignment records, which reflect that the name of the assignee is "Wyeth" and not "Wyeth LLC." See, US Reel/Frame 018907/0819.

The required $130.00 processing fee has been charged to the authorized deposit account. See, 37 CFR 1.17(i).

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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SEP 13 2011

OFFICE OF PETITIONS

Wyeth LLC/MH2 Technology Law Group, LLP
1951 Kidwell Drive
Suite 550
Tysons Corner VA 22181

In re Patent No. 7,846,652 :
Issue Date: December 7, 2010 :
Application No. 11/491,761 : ON PETITION
Filed: July 24, 2006 :
Attorney Docket No. WYT-111-02 :

This is a decision on the petition filed August 17, 2011, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is DISMISSED.

Petitioner requests issuance of a certificate of correction in the name of "Wyeth LLC."

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from WYETH to WYETH LLC was recorded on August 16, 2011, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition 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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APR 26 2011

OFFICE OF PETITIONS

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

In re Patent of Chung et al. :
Patent No. 7,893,897 :
Issue Date: February 22, 2011 : Letter
Application No. 11/491,880 :
Filing Date: July 25, 2006 :
Attorney Docket No. 304/003 :

This is a decision in response to the "Request for Certificate of Correction Under 37 C.F.R. §1.323" filed February 23, 2011.

The request is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Request under 37 C.F.R. § 3.81(b) and Renewed Request for Certificate of Correction."

Pursuant to 37 C.F.R. § 3.81(b), the following items must be filed in order to add an assignee to the front page of a patent:

(1) A request under 37 C.F.R. § 3.81 and the fee set forth in 37 C.F.R. § 1.17(i);
(2) A statement an assignment to the assignee was recorded prior to issuance of the patent; and
(3) A request for a certificate of correction under 37 C.F.R. § 1.323 and the fee set forth in 37 C.F.R. § 1.20(a).

The instant request is not accompanied by items (1) and (2) set forth above. Therefore, the request cannot be granted.

Any request for reconsideration should include a request under 37 C.F.R. § 3.81, the fee set forth in 37 C.F.R. § 1.17(i), and a statement that an assignment to the assignee to be added was recorded prior to issuance of the patent.

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

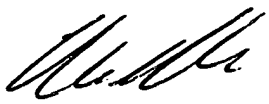
By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 02 2011

OFFICE OF PETITIONS

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

In re Patent of Chung et al. :
Patent No. 7,893,897 :
Issue Date: February 22, 2011 : Letter
Application No. 11/491,880 :
Filing Date: July 25, 2006 :
Attorney Docket No. 304/003 :

This is a letter in response to the "Request under 37 C.F.R. § 3.81(b) and Renewed Request for Certificate of Correction" filed June 27, 2011.

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

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

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

Patentees have met the requirements set forth above. Therefore, the request is granted.

The required fee of $130 has been charged to Deposit Account No. 50-1645.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 08 2011

OFFICE OF PETITIONS

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH VA 22042

In re Patent No. 7893898 :
Issue Date: 02/22/2011 :
Application Number: 11/491910 : ON PETITION
Filing or 371(c) Date: 07/25/2006 :
Attorney Docket Number: 304/005 :

This is a decision on the request under 37 CFR 3.81(b),[1] filed on February 23, 2011, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The $130.00 processing fee required by § 1.17(h) will be charged to counsel's deposit account, as authorized in the subject petition.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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: R2184.0156/P156-A	Patent Number: 7,663,783
Filing Date (or 371(b) or (f) Date): 07-25-2006	Issue Date: 02-16-2010
First Named Inventor: Shinji Yamakawa	
Title: IMAGE-PROCESSING DEVICE PROCESSING IMAGE DATA BY JUDGING A DETECTED AND EXPANDED MEDIUM-DENSITY FIELD AS A NON-CHARACTER EDGE FIELD	

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: Jennifer M McCue	Date: August 13, 2010
Name (Print/Typed): Jennifer M. McCue	Registration Number: 55,440

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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 09/08/2010

Applicant	: Shinji Yamakawa	: DECISION ON REQUEST FOR
Patent Number	: 7663783	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/491,966	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUL 21 2011
OFFICE OF PETITIONS

HANOR LAW FIRM
750 RITTIMAN ROAD
SAN ANTONIO TX 78209

In re Application of :
Jack Anderson :
Application No. 11/491,993 : DECISION ON PETITION
Filed: July 25, 2006 :
Attorney Docket No. 8377.002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, August 6, 2009, 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 November 7, 2009. A Notice of Abandonment was mailed on May 25, 2010.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 29, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

This application is being referred to Technology Center AU 3741 for appropriate action by the Examiner in the normal course of business on the reply received June 29, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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.
11/492,119	07/25/2006	Toshifumi Inno	Q96191	5960

65565 7590 02/17/2011
SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

EXAMINER	
ROBINSON, CHANCEITY N	
ART UNIT	**PAPER NUMBER**
1722	

NOTIFICATION DATE	DELIVERY MODE
02/17/2011	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):

SUGHRUE265550@SUGHRUE.COM
USPTO@SUGHRUE.COM
PPROCESSING@SUGHRUE.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

2/17/2011

wk

Mailed:
In re application of :
Inno : DECISION ON
Serial No. 11/492,119 : PETITION
Filed: July 25, 2006 :
For: **METHOD FOR PREPARATION OF LITHOGRAPHIC PRINTING PLATE AND LITHOGRAPHIC PRINTING PLATE PRECURSOR**

This is a decision on the PETITION UNDER 37 CFR 1.181 to the Group Director to withdraw the Finality of the Office Action dated July 22, 2010. The Examiner issued an Advisory Action on November 1, 2010.

On January 24, 2011, the instant petition under 37 CFR 1.181 was filed.

DECISION

Rule 1.181, Section (f) states:
§ 1.181 Petition to the Commissioner.

(f) Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable

Accordingly, the instant petition is **DISMISSED.**

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

Brett S. Sylvester
SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

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ALEXANDRIA, VA 22313-1450
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Paper No.

BAHRAM BAHRAMIAN
202 Halpine Walk Ct.
Rockville, MD 20851

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Bahramian	:	
Application No. 11/492,224	:	DECISION ON PETITION
Filed: July 25, 2006	:	UNDER 37 C.F.R. §1.137(A)
Title: Light Weight Sandwich Panels	:	

This is a decision on the petition filed February 17, 2010, under 37 C.F.R. §1.137(a), to revive the above-identified application. Receipt of the status inquiry filed August 16, 2010 is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to timely file a proper reply to the Notice of Noncompliant Amendment mailed May 23, 2008. This Notice set a one (1) month period to supply the omission or correction in order to avoid abandonment. No extensions of time were obtainable as the application had been granted special status under the accelerated examination program. Accordingly, the above-identified application became abandoned on June 24, 2008. A courtesy notice of abandonment was mailed on September 2, 2008. The instant petition was filed February 17, 2010.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's

interpretation of those provisions is entitled to considerable deference."[1]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[2]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[3]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[4]

The standard

The burden of showing the cause of the delay is on the person seeking to revive the application[5].

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6]

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1 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

2 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

3 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

4 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

5 Id.

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[7].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[8]."

RELEVANT LAW, RULES, AND PORTIONS OF THE MPEP

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 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.

(Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

As stated in MPEP 711.02(A)

A petition to revive an abandoned application on the grounds that the failure to reply was unavoidable (37 CFR 1.137(a))

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7 In re Mattullath, 38 App. D.C. at (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).
8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

must be accompanied by: (1) the required reply (which has been filed); (2) 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; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(d); and (4) the petition fee as set forth in 37 CFR 1.17(l). No consideration to the substance of a petition will be given until this fee is received.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent. This must include: (1) a satisfactory showing that the cause of the delay resulting in failure to reply in timely fashion to the Office action was unavoidable; and (2) a satisfactory showing that the cause of any delay during the time period between abandonment and filing of the petition to revive was also unavoidable.

ANALYSIS

With the present petition, Petitioner has submitted an amendment in response to the Notice of Noncompliant Amendment and the petition fee, thus meeting the first and second requirements of 37 C.F.R. §1.137(a). It is noted that no terminal disclaimer is required.

Regarding the third requirement, Petitioner has not met his burden of establishing that the *entire* delay was unavoidable. The showing required under §1.137(a) is extremely exacting.

Petitioner has explained that he received the Notice of Noncompliant Amendment but did not respond as it arrived in the midst of his family medical crisis, with eventual death of his wife in December 2008. In addition, the Notice of Abandonment was received while he was attending hospice. Petitioner attributes his inability to respond to any communication in a timely manner to the illness and death of his wife. He states that the application was abandoned unavoidably and unintentionally. The petition includes a copy of the death certificate of Mrs. Bahramian.

Under the law, such a delay is not "unavoidable" within the meaning of §1.137(a). It is understandable how the sickness and eventual passing of a family member can take precedence over all other matters. However, petitioner was responsible for

prosecuting this application (or delegating the prosecution of this application to another) and the reasons stated by petitioner for the failure to do so are not considered unavoidable. Petitioner does not show that he himself was medically incapacitated from taking action in this application.

Even more significant in this case to the failure of meeting the third requirement is the delay in filing the petition. Petitioner should note that it is the entire period of delay, from the due date for the reply until the filing of a grantable petition, which must be shown to have been unavoidable. An applicant who fails to file a petition under 37 CFR 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 CFR 1.137(a) was unavoidable.

Here, petitioner acknowledges receipt of the Notice of Abandonment in September of 2008. He attributes his failure to take action in response to attending the hospice. Again, his inaction is quite understandable. However, receiving the Notice, not responding and then delaying more than a year before filing a petition is not excusable under 37 CFR 1.137(a).

In view thereof, the petition under 37 CFR 1.137(a) must be dismissed.

Petitioner states that the delay was also unintentional. The dismissal of this petition under 37 CFR 1.137(a) does not preclude applicant from obtaining relief pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Enclosed is form PTO/SB/64, the form used to petition under 1.137(b). The petition fee is presently $810 for a small entity (but is subject to change. Petitioner may wish to verify fee with the Office of Petitions Helpdesk at (571) 272-3282 at the time of filing). The filing of a petition under 37 CFR 1.137(b) should not be delayed.

CONCLUSION

Pursuant to the above discussion, the petition must be **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reply 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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3219. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Nancy Johnson
Senior Attorney
Office of Petitions

Enclosure: Form PTO/SB/64, PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(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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Paper No.

BAHRAM BAHRAMIAN
202 Halpine Walk Ct.
Rockville, MD 20851

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of :
Bahramian :
Application No. 11/492,224 : DECISION ON PETITION
Filed: July 25, 2006 : UNDER 37 C.F.R. §1.137(b)
Title: Light Weight Sandwich :
Panels :

This is a decision on the Petition For Revival of an Application for Patent Abandoned Unintentionally filed October 12, 2010.

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

The above-identified application became abandoned effective June 24, 2008 for failure to timely file a proper reply to the Notice of Noncompliant Amendment mailed May 23, 2008. By decision mailed September 13, 2010, a prior petition under 37 CFR 1.137(a) filed February 17, 2010 was dismissed.

Petitioner has satisfied the requirements of 37 CFR 1.137(b). The previous petition included the required reply in the form of an amendment. The present petition includes the petition fee and a statement of unintentional delay. No terminal disclaimer is required.

It is noted that the language of the statement of unintentional delay varies from the language required by 37 CFR 1.137(b)(3). Petitioner does not say "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." Petitioner describes the circumstances of the abandonment and states that "my application went abandoned unintentionally." Petitioner's statements are being construed as the statement required by 37 CFR §1.137(b)(3). If this is not a correct reading of the statement appearing in the petition, petitioner must promptly notify the Office.

The application is being forwarded to Technology Center AU 3635 for consideration of the response submitted on petition filed February 17, 2010.

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
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Paper No.

MCANDREWS HELD & MALLOY, LTD
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SUITE 3400
CHICAGO IL 60661

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of :
Karaoguz et al. :
Application No. 11/492,390 : ON APPLICATION FOR
Filed: July 25, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 17380US01 :

This is in response to the Request for Reconsideration of the Patent Term Adjustment under 37 C.F.R. § 1.705 filed September 28, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand two hundred and four (1204) days, not seven hundred eight (708) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OPPENHEIMER WOLFF
& DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of :
Bergheim, et al. :
Application No. 11/492,486 : DECISION
Filed/Deposited: 24 July, 2006 :
Attorney Docket No. 22561-8005/US/6 :

This is a decision on the petition filed on 26 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation, including §3.73(b), certificate 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1]

In the event that such an inquiry has not been made, Petitioner ***must*** *make such an inquiry.*

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the Office.*

[1] *See* 37 C.F.R. §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).

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 6 July, 2010, with reply due absent extension of time on or before 6 October, 2010.

The application went abandoned by operation of law after midnight 6 October, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 26 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of 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.[2]

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

STATUTES, REGULATIONS 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).[3] 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.[4]))

As to Allegations of
Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

The instant application is released to the Technology Center/AU 3773 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.

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[3] 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.

[4] 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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]; and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC:
C. MATTHEW ROZIER
STERNE KESSLER GOLDSEIN & FOX PLLC
1100 NEW YORK AVENUE , NW
WASHINGTON, DC 20005-3934

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

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NOV 24 2010

OFFICE OF PETITIONS

Berenbaum Weinshienk PC
370 Seventeenth Street
Republic Plaza, Suite 4800
Denver CO 80202

In re Application of :
BELLOMO, ALBERTO : ON APPLICATION
Application No. 11/492,503 : FOR
Filed: 07/24/2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 15220.859US01 :

This is in response to the COMMENTS ON ALLOWANCE filed July 29, 2010, which is being treated as a petition under 37 CFR § 1.705(b). Applicants request that the determination of patent term adjustment be corrected from 330 days to 404 days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

The request is **DISMISSED**.

Applicants are advised that 37 CFR § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, 37 CFR § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance and included an authorization to charge the issue fee and publication fee. However, neither the fee under 37 CFR § 1.18(e) nor an authorization to charge the required fee, accompanied the instant application for patent term adjustment.

Accordingly, the request is dismissed for failure to comply with the requirement of 37 CFR § 1.705(b)(1) to submit the fee under 37 CFR § 1.18(e).

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR § 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR § 1.702(b) until the time of the issuance of the patent. Accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent and accompanied by the $200.00 fee set forth in 37 CFR § 1.18(e).

The Office of Data Management has been advised of this decision and is directed to proceed with the processing of this application into a patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DANIEL J SWIRSKY
55 REUVEN ST.
BEIT SHEMESH 99544 IL ISRAEL

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Riedel, et al. : DECISION ON PETITION
Application No. 11/492,506 :
Filed: July 24, 2006 :
Atty. Dkt. No. 1912-US :

This is in response to the petition under 37 CFR 1.183 filed February 28, 2011 to waive the requirements of 37 CFR 1.131. Receipt is acknowledged of the required petition fee of $400.00.

Petitioners request waiver of 37 CFR 1.131 in that the rule requires that all joint inventors sign any affidavit or declaration of prior invention.

BACKGROUND

1. A declaration under 37 CFR 1.131 was filed February , 2011, along with the present petition requesting acceptance of the declaration signed by less than all of the joint inventors.

4. The declaration is five of the eight inventors named in the application. The declaration is not signed by joint inventors J. Petranovitch, D. Ayyagari, and W. Chan. It is for this omission that the petition requests acceptance, via suspension or waiver of the regulations.

5. The petition proffers a showing for the purpose of establishing that the inventors cannot be reached to sign the supplemental declaration. The petition sets forth (a) the efforts made on behalf of applicants/assignee to contact the inventors and obtain the requisite signatures on the declaration, and (b) the lack of success of such efforts.

DECISION

When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

An oath or declaration submitted pursuant to 37 CFR 1.131 should be appropriately signed. However, 37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the signature requirements of 37 CFR 1.131.

Petitioners have failed to establish that non-signing inventors cannot be reached or located. Where inability to reach or locate a non-signing inventor is alleged, petitioners must establish that diligent effort was made to locate the inventor and provide the non-signing inventor with the affidavit or declaration of prior invention. Petitioners assert that effort contact the non-signing inventors via email was unsuccessful. Petitioners have not established that diligent effort has been made to locate the non-signing inventors for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventors cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventors. 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. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition.

CONCLUSION

In view thereof, the petition under 37 CFR 1.183 is DISMISSED.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 28 2011

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :
Stijn Willem Herman Karel STEENBRINK et al.: ON PETITION
Application No. 11/492,572 :
Filed: July 24, 2006 :
Atty. Docket No.: 3531P021

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

The petition is **DISMISSED**.

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

This application was held abandoned for failure to properly reply to the final Office action mailed February 4, 2010, which set a three (3) month shortened statutory period for reply. A reply was not received, and a three (3) months extension of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on August 5, 2010. A Notice of Abandonment was mailed September 10, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The petition lacks item (1).

Regarding item (1), the instant petition includes a response in the form of amendments to the claims, however the claim amendments are non-compliant. The instant Petition does not satisfy item (1) for the following reason: under MPEP 711.03(c) (2)(b),

> "a reply " ... to a final action must include [an] ... RCE ... or cancellation of, or appeal from the rejection of, each claim so rejected."

On the one hand, the Petition does not contain an RCE, cancellation of each rejected claim, or appeal from each rejected claim. On the other hand, whereas Applicant has submitted an Amendment After Final, the Amendment fails to place the Application in condition for allowance. The submitted reply is not appropriate, and the Petition cannot be granted. See the enclosed PTOL-303.

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

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

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

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

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

Anthony Knight
Director
Office of Petitions

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

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/492,572	Applicant(s) KAREL STEENBRINK ET AL.	
	Examiner BROOKE PURINTON	Art Unit 2881	

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

THE REPLY FILED 04 May 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-6 and 8-30*.
   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: _____.

/B. P./
Examiner, Art Unit 2881

Do not enter /bjp/

Atty. Docket No: 003531.P021

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Stijn Wille Herman Karel Steenbrink, et al.	Examiner: Brooke J. Purinton
Application No. 11/492,572	Art Unit: 4174
Filed: July 24, 2006	Confirmation No.: 7188
For: **IMPROVING RELIABILITY IN A MASKLESS LITHOGRAPHY SYSTEM**	

AMENDMENT AND RESPONSE TO ADVISORY ACTION

AND

PETITION TO REVIVE

Mail Stop: PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In connection with the Office Action mailed August 18, 2010, regarding the above-referenced application, Applicant respectfully requests consideration of the following amendments and remarks below.

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

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AUG 05 2011

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :
Stijn Willem Herman Karel STEENBRINK et al.: ON PETITION
Application No. 11/492,572 :
Filed: July 24, 2006 :
Atty. Docket No.: 3531P021

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to properly reply to the final Office action mailed February 4, 2010, which set a three (3) month shortened statutory period for reply. A reply was not received, and three (3) months extension of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on August 5, 2010. A Notice of Abandonment was mailed September 10, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the final Office action mailed February 4, 2010 is accepted as having been unintentionally delayed.

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

The application is being referred to Technology Center Art Unit 2881 for further examination on the merits.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

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Alexandria, VA 22313-1450
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PETER LOFFLER
P.O. BOX 1001
NICEVILLE, FL 32588-1001

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of :
George P. Baummer :
Application No. 11/492,644 : ON PETITION
Filed: July 25, 2006 :
Attorney Docket No.: 360476 :

This is a decision on the petition, filed September 6, 2011, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 26, 2010. A Notice of Abandonment was mailed on January 18, 2011. On September 6, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and the appeal fee of $270; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3653 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Michael Wojcik et al. :
Application No. 11/492,651 : DECISION ON PETITION
Filed: July 25, 2006 :
Attorney Docket No. **CU-4694 BSE** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 4, 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 March 3, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 4, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 $1,110 extension of time fee submitted with the petition on January 4, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3751 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/492,666	07/25/2006	Thomas K. Reusche	16825US02	7076

23446 7590 08/20/2010
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER	
XAVIER, VALENTINA	

ART UNIT	PAPER NUMBER
3644	

MAIL DATE	DELIVERY MODE
08/20/2010	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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AUG 20 2010

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

In re Application of	:	DECISION ON THE PETITION
Thomas REUSCHE et al.	:	FOR WITHDRAWAL OF THE
Application No. 11/492,666	:	RESTRICTION REQUIREMENT
Filed: July 25, 2006	:	
For: SYSTEM AND METHOD FOR COOLING WATER WITHIN A PET BOWL	:	

This is a decision on applicant's petition on the propriety of the restriction requirement under 37 CFR 1.144, filed on March 11, 2010.

The petition is **DENIED**.

Applicants allege that the restriction requirement was improper because the examiner has not established a prima facie serious burden with respect to search and examination of all the claims.

A close review of the file reveals that a species restriction requirement was mailed to applicants on September 17, 2009 between the species I of figures 1-3, species II of figure 4 and species III of figure 5. Claim 1 was identified as a generic claim.

Applicants elected with traverse to prosecute species I, claims 1-5, 9-11 and 15-18 in a response filed on September 24, 2009. Applicants traversed on the ground that the examiner has not established a prima facie serious burden of examination and search. In a non-final Office action of December 24, 2009 the examiner addressed applicant's traversal of the restriction requirement and withdrew claims 6-8, 12-14, 19 and 20 as being drawn to a non-elected species with traverse.

Regarding applicants' argument that the examiner has not established a prima facie serious burden of examination and search, and it would not be a serious burden on the examiner to examine all of the pending claims. MPEP§ 808.02 clearly sets forth the criteria for establishing a burden as including a separate classification, a separate status in the art, and a different field of search. In the December 24, 2009 Office action, the examiner stated on page 2 that "*Figure 4 illustrates a non-porous inner container and a porous outer container (for evaporation cooling) with a cavity intermediate the two containers to retain water to serve as a heat path to draw heat from the interior non-porous container. This invention is distinct from that of Group I, which teaches a single component – porous container that is able to cool water within by evaporation. Examiner considers the disclosed subject matter of Group II (Figure 4) to be a different field of search than a simple porous container which allows evaporation. With regard to the restriction of Group III (Fig. 5), Applicant discloses US Application No.*

11/269,063 which is incorporated by reference to show an automatically filing pet bowl container. The automatic water supply system of the present application would have a different field of search than Groups I and II – as one required for US Application No. 11/269,063 in Class 141." By detailing the differences between the species the examiner has clearly set forth a different field of search for each distinct species: The search for Group I involves a porous container which allows evaporation; the search for Group II involves a non-porous inner container and a porous outer container (for evaporation cooling) with a cavity intermediate the two containers to retain water to serve as a heat path to draw heat from the interior non-porous container; and the search for Group III involves an automatically filing pet bowl container wherein the automatic water supply system would have a search similar to that required for US Application No. 11/269,063 in Class 141. It is obvious from the examiner's rationales that a search for a porous container would employ one set of search queries that are different from another set of search queries employed by a search for an automatically filing container that are different from still another set of search queries for a container with a non-porous inner member spaced apart from the porous outer member. One skilled in the art would not look for an automatically filing container when searching for a container with a non-porous inner member spaced apart from the porous outer member and so on. The examiner has clearly established a burden of search and examination by showing a different field of search for each distinct species.

Applicants further argue that the Office action fails to objectively shown or demonstrated that the "species require a different field or search" through evidence and/or objective, supported reasoning, different classification or sub-classification. It is noted that by providing a detailed explanation of the differences between the species as stated above, the examiner has clearly presented evidence or objective supported reasoning for a different field of search for each species. An examiner is not limited to classification or sub-classification in showing different fields of search for distinct inventions.

Applicants also argue that a conclusory assertion of "mutual exclusive characteristics" does not establish a prima facie case of a serious burden. Applicants' attention is directed to MPEP § 806.05 which sets forth the showing of "mutual exclusive characteristics" as evidence of distinctness. MPEP§ 808.02 sets forth the criteria for establishing a burden as including a separate classification, a separate status in the art, and a different field of search. Mutual exclusive characteristics are not factors in establishing burden of search and examination.

On the other hand, it is noted that applicants have not shown any evidence why it would not be a burden to search and examine all of the pending claims in all of the responses or arguments in record.

In summary, the rationales presented in the restriction requirement dated September 17, 2009 and the response to applicant's traversal in the Office action dated December 24, 2009 are evidence that the examiner clearly met the criteria set forth under MPEP § 806.05 to show distinctness between the species, and the criteria set forth under MPEP § 808.02 establishing examination burden. Applicant's arguments are not found to be persuasive. The restriction between Species I, II and III is deemed **proper** and hereby maintained for the reasons set forth above.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at 571-272-6867.

Katherine A. Matecki, Director
Patent Technology Center 3600
(571) 272-5250

lm: 7/28/10
LM

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
JUNG, et al	:	
Application No. 11/492,689	:	DECISION ON PETITION
Filed: July 24, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0184US	:	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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
JUNG, et al	:	
Application No. 11/492,691	:	DECISION ON PETITION
Filed: July 24, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0185US	:	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

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United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Vanessa Sutton	:	
Application No. 11/492,724	:	DECISION ON PETITION
Filed: July 25, 2006	:	TO WITHDRAW
Attorney Docket No. PWMC-0003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 15, 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 Barry E. Kaplan 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 Vanessa Sutton at the address indicated below.

There is an outstanding Office action mailed May 24, 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: **VANESSA SUTTON**
C/O PWMC
116 JOSEPH E. LOWERY BLVD.
ATLANTA, GA 30314

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
11/492,724	07/25/2006	Vanessa Sutton	PWMC-0003

CONFIRMATION NO. 7661

POWER OF ATTORNEY NOTICE

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

Date Mailed: 10/05/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/15/2010.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BREINER & BREINER, L.L.C.
115 NORTH HENRY STREET
ALEXANDRIA VA 22314

MAILED

JAN 30 2012

OFFICE OF PETITIONS

In re Application of	:	
Powers et al.	:	DECISION ON PETITION
Application No. 11/492,762	:	TO WITHDRAW
Filed: July 26, 2006	:	FROM RECORD
Attorney Docket No. 6718	:	

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 6, 2012.

The request is **APPROVED**.

The request was signed by Jennifer A. Harchick on behalf of herself, as she is now an employee of the U.S. Patent and Trademark Office.

All other attorneys/agents of record remain and the correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/492,771	07/26/2006	Fumihiro Hasegawa	294261US2	7639

22850 7590 10/18/2011

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

EXAMINER	
LI, RUIPING	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
10/18/2011	ELECTRONIC

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of :
HASEGAWA, FUMIHIRO et al :
Application No. 11/492,771 : DECISION ON PETITION
Filed: July 26, 2006 :
For: **IMAGE PROCESSING DEVICE, IMAGE COMPRESSION METHOD, IMAGE COMPRESSION PROGRAM, AND RECORDING MEDIUM** :

This is a decision on the petition, filed September 20, 2011, under 37 CFR 1.181(a)(3) for consideration of document (AW) included with an Information Disclosure Statement filed March 23, 2011 and Documents (AP) and (AW) included with an Information Disclosure Statement filed June 16, 2011.

A review of the application file reveals that the above mentioned documents included with information disclosure listings submitted on March 23, 2011 and June 16, 2011 have been considered by the examiner, and, initialed Forms PTO-1449 were mailed on October 13, 2011.

Accordingly, Petitioner's request is **Dismissed as Moot**.

/John Peng/

John Peng
Quality Assurance Specialist
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/20/11

TO SPE OF : ART UNIT 2481

SUBJECT : Request for Certificate of Correction for Appl. No.: 11492858 Patent No.: 7809245

CofC mailroom date: 11/09/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square - 9D10-A
Palm Location 7690
[redacted]

Note:

Ramonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

(Mark your decision in the appropriate box.)

☒ Approved — All changes apply.

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

☐ Denied. — State the reasons for denial below.

THAI Q TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 3484

Comments: The Request for Certificate of Correction filed 11/09/2010 has been approved.

PTOL-308 (REV. 7/05) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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SILICON VALLEY PATENT GROUP LLP
4010 MOORPARK AVENUE
SUITE 210
SAN JOSE CA 95117

MAILED
AUG 12 2011
OFFICE OF PETITIONS

In re Application of
Ge Zhu
Application No. 11/493,047
Filed: July 26, 2006
Attorney Docket Number: HYM-010

ON PETITION

This is a decision on the petition, filed August 4, 2011 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned July 18, 2011 for failure to pay the issue fee in response to the Notice of Allowance mailed on April 15, 2011. Accordingly, the Notice of Abandonment was mailed on July 29, 2011.

The issue fee in the amount of $755.00, publication fee in the amount of $300 and the petition fee in the amount of $810 have been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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WILSON DANIEL SWAYZE, JR.
3804 CLEARWATER CT.
PLANO TX 75025

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of :
Fretz :
Application No. 11/493,162 : DECISION
Filed/Deposited: 27 July, 2006 :
Attorney Docket No. WDS-1900 :

This is a decision on the petition filed on 26 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

The record (including the petition filed on 26 January, 2011) does not necessitate a finding that the delay between midnight 27 January, 2010 (the date of abandonment), and 26 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Wilson Daniel Swayze, Jr. (Reg. No. 34,478), when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

As to the Allegations
of Unintentional Delay

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

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 27 October, 2009, with reply due absent extension of time on or before 27 January, 2010.

The application went abandoned by operation of law after midnight 27 January, 2010.

The Office mailed the Notice of Abandonment on 13 May, 2010.

On 26 January, 2011, almost exactly one year from the date of abandonment and more than seven (7) months after the mailing of Notice thereof, 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.

As previously noted, the record (including the petition filed on 26 January, 2011) does not necessitate a finding that the delay between midnight x 27 January, 2010 (the date of abandonment), and 26 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Wilson Daniel Swayze. Jr. (Reg. No. 34,478), when accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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]

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[5]))

As to Allegations of
Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

The instant application is released to the Technology Center/AU 3771 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.

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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Tony X. Han, et al.	:	
Application No. 11/493,311	:	DECISION ON PETITION
Filed: July 26, 2006	:	
Attorney Docket No. 2005P13534 US01	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 26, 2010. Accordingly, the date of abandonment of this application is July 27, 2010. The Notice of Abandonment was mailed August 9, 2010.

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

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.
11/493,439	07/25/2006	Hsiang-Tsun Li	061170	8502

23696 7590 09/19/2011
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

EXAMINER	
VILLECCO, JOHN M	

ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
09/19/2011	ELECTRONIC

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

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

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

us-docketing@qualcomm.com

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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September 15, 2011

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE MD 20705-5131

In re Application of :
LIU, LINSHU, et al. : **DECISION ON PETITION**
Application No: **11/493439** :
Filed: **07/25/2006**
Attorney Docket No: **061170**

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 9, 2008.

The petition is **DISMISSED.**

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

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

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

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

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

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571- 576-1565.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management

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.
11/493,439	07/25/2006	Hsiang-Tsun Li	061170	8502

23696 7590 09/19/2011
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

EXAMINER	
VILLECCO, JOHN M	

ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
09/19/2011	ELECTRONIC

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

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

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

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

September 15, 2011

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
LI, HSIANG-TSUN, et al. : **DECISION ON PETITION**
Application No: **11/493439** :
Filed: **07/25/2006**
Attorney Docket No: **061170**

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 25, 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- 576-1565.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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October 12, 2011

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

Re Application of
LI, HSIANG-TSUN, ET Al
Application: **11/493439** : **DECISION ON PETITION**
Filed: **07/25/2006** : **ACCEPTANCE OF COLOR**
Attorney Docket No: **061170** : **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 25, 2006 & the Renewed Petition received October 5, 2011.

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

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

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

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

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

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

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.
11/493,439	07/25/2006	Hsiang-Tsun Li	061170	8502

23696 7590 10/13/2011
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

EXAMINER	
VILLECCO, JOHN M	

ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
10/13/2011	ELECTRONIC

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

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

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

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
Li, Hsiang-Tsun, *et, al*
Serial No.: 11/493439
Filed: Jul. 25, 2006

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

MAIL

OCT 12 2011
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

For:
MOBILE DEVICE WITH DUAL DIGITAL CAMERA SENSORS AND METHODS OF USING THE SAME

This is a decision on the petition under 37 CFR §1.84(a)(2), filed October 5, 2011 requesting acceptance of color drawings.

The petition requests that the color drawings identified in FIGS. 3A-3C,4A-4F,5A-5C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition is GRANTED.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-02-11

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/493447 Patent No.: 7833252

CofC mailroom date: 03-22-11

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

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

/E.C.H./

Examiner, Art Unit 3733

SPE Todd E. Manahan Digitally signed by Todd E. Manahan DN: cn=Todd E. Manahan, c=US Reason: I am approving this document Date: 2011.04.19 16:13:41 -04'00' **Art Unit** 3776

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SILVERSKY GROUP, LLC
5422 LONGLEY LANE, SUITE B
RENO, NV 89511

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of
Mario Cagliari, et. al.
Application No. 11/493,495
Filed: July 25, 2006
Attorney Docket No. 300003-00001

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 37 CFR 10.40, filed July 22, 2010.

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[1].

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] There is an outstanding Office action mailed on July 20, 2010 that requires a reply from applicant.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Hsu et al.	:	
Application No. 11/493,595	:	DECISION ON PETITION
Filed: July 27, 2006	:	
Attorney Docket No. TAIW-622	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 16, 2009, as required by the Notice of Allowance and Fee(s) Due mailed April 16, 2009. Accordingly, the date of abandonment of this application is July 17, 2009. A Notice of Abandonment was mailed August 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00 (previously submitted October 22, 2009); and (3) a proper statement of unintentional delay.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES 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 04 2010

OFFICE OF PETITIONS

HOLME ROBERTS & OWEN LLP
1700 LINCOLN STREET
SUITE 4100
DENVER CO 80203

In re Application of	:	
Marc Pappalardo	:	DECISION ON PETITION
Application No. 11/493,690	:	TO WITHDRAW
Filed: July 25, 2006	:	FROM RECORD
Attorney Docket No. 53551-10000	:	

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 7, 2010.

The request is **APPROVED**.

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

The request was signed by Mark L. Yaskanin on behalf of all attorneys of record who are associated with Customer No. 79362.

All attorneys/agents associated with Customer Number 79362 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 at the address indicated below.

Currently, there is an outstanding Office action mailed February 3, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Marc Pappalardo
1626 Spruce Street
Boulder, CO 80302

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):
11/493,800	
First Named Inventor:	Title of Invention:
NOJIMA, et al.	MANAGING SYSTEM AND METHOD FOR EMISSIONS OF ENVIRONMENTAL POLLUTANTS

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Paul J. Skwierawski/	Date May 9, 2011
Name (Print/Typed) Paul J. Skwierawski	Practitioner Registration Number 32,173

Note: *Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of :
Masafumi NOJIMA et al. :
Application No. 11/493,800 : DECISION ON PETITION
Filed: July 27, 2006 :
Attorney Docket No.: 520.46437X00 :

This is a decision on the request filed May 9, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 18, 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 571-272-4914. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1772 for re-mailing of the Office action of January 18, 2011. The period for reply will run from the mailing date of the Office action.

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

BLAKELY SOKOLOFF TAYLOR &ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of	:	
DORE, et al	:	
Application No. 11/493,911	:	DECISION ON PETITION
Filed: July 25, 2006	:	
Docket No. 7912P010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 19, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 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 August 28, 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.

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) 272-3600.

This application is being referred to Technology Center AU 3687 for appropriate action by the Examiner in the normal course of business.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/15/11

TO SPE OF : ART UNIT 2436

SUBJECT : Request for Certificate of Correction for Appl. No.: 11493912 Patent No.: 7962763

CofC mailroom date: 12/06/11

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

FOR NEW 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 Claim 1
Should the changes to the claim be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

PAGE 1/2 * RCVD AT 12/16/2011 9:48:50 AM [Eastern Standard Time] * SVR:W-PTOFAX-002/45 * DNIS:2733421 * CSID:703 308 4084 * DURATION (mm-ss):00-58

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: _____

Kasser Moazzami — 2436

SPE — **Art Unit**

PAGE 2/2 * RCVD AT 12/16/2011 9:48:50 AM [Eastern Standard Time] * SVR:W-PTOFAX-002/45 * DNIS:2733421 * CSID:703 308 4084 * DURATION (mm-ss):00-58

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAMINDA U. MADURAWE
882 LOUISE DRIVE
SUNNYVALE CA 94087

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Raminda Udaya Madurawe, et al. :
Application No. 11/494,001 : DECISION ON PETITION
Filed: July 28, 2006 :
Attorney Docket No. Madurawe039 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Bao Tran**
6768 Meadow Vista Court
San Jose, CA 95135

UNITED STATES 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. : 7,708,898 B2
Ser. No. : 11/494,029
Inventor(s) : Bochiechio et al.
Issued : May 4, 2010
Title : TANK SCREENING DEVICE FOR USE IN AUTOMATED CLEANING OF INVESTMENT CASTING SLURRY TANKS
Docket No. : U73.12-0093
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

Mr. Timothy Scott
100 Cyberonics Blvd.
Houston, Texas 77058

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JAN 07 2011

OFFICE OF PETITIONS

In re Application of :
MASCHINO et al. : DECISION GRANTING PETITION
Application No. 11/494,057 : UNDER 37 CFR 1.137(b)
Filed: 26 July 2006 :
Atty. Docket No. 2113.003500

This is a decision on the petition under 37 CFR 1.137(b), filed 22 April 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 9 October 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 *as a matter of law* on 10 December 2009, and the Notice of Abandonment was mailed 19 April 2010.

The Application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the Application, the Application is again abandoned in favor of continuing divisional application (12/757,002).

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 3762 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

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AUG 3 1 2010

OFFICE OF PETITIONS

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

In re Application of
Deng, et al.
Application No. 11/494,060
Filed: July 27, 2006
Attorney Docket Number: PRD2513USNP

: ON REQUEST FOR
: RECONSIDERATION OF
: 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 74 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 **two hundred ninety-two (292) days** (305 days of PTO delay, reduced by 13 days of Applicant delay).

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

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

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

Anthony Knight
Director
Office of Petitions

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

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OFFICE OF PETITIONS

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

In re Patent No. 7,760,093 :
Issued: July 20, 2010 :
Application No. 11/494,149 : DECISION ON PETITION
Filed: July 26, 2006 :
Attorney Docket No. BP5465 :

This is a decision on the petition under 37 CFR 1.182 filed September 27, 2010, which is being treated as a petition under 37 CFR 1.59 to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that documents mailed by the examiner on May 24, 2010, be expunged from the record. Petitioner states that these documents were mailed by the examiner in error.

The petition is deficient because the petition was filed after issuance of the above identified application. The petition was filed September 27, 2010 and the application issued as a patent on July 20, 2010. Petitions to expunge filed under 37 CFR 1.59 cannot be granted in a patented file.

Petitions filed under 37 CFR 1.59 require a $200 petition fee. Petitioner filed a petition fee of $400 based on the fact that the petition was filed under 37 CFR 1.182. A refund of $200 has been applied to petitioner's deposit account.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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AUG 12 2010

OFFICE OF PETITIONS

STANLEY ABRAMSON
4215 GROVE STREET
SKOKIE IL 60076

In re Application of
Stanley Abramson
Application No. 11/494,197
Filed: July 28, 2006
Title of Invention: **VEHICLE PASSENGER SIDE EXTERIOR CONVEX MIRROR THAT INCORPORATES A CALCULATED AND CALIBRATED ACTUAL DISTANCE VISUAL INDICATOR FOR SAFE ADJACENT LANE CHANGING**

ON PETITION

This is a decision on the petition filed May 17, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

In response to a non-Final Office Action mailed November 16, 2007 an amendment was filed on December 14, 2007. However, in response thereof, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed February 14, 2008 which set a one month period for reply. A reply was filed February 25, 2008 to which a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed July 18, 2008 which set a one month period for

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

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

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

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

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

December 3, 2008 which set a one month period for reply after the filing of replies on July 23, 2008 and October 31, 2008. Thereafter, a reply was filed on December 16, 2008 and in response a Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) No New Time Period for Reply was mailed February 23, 2009. A reply was filed February 26, 2009 however, the application had already become abandoned as of January 5, 2009 and thus, a Notice of Abandonment was mailed August 18, 2009.

The instant petition is filed with an amendment in response to the non-Final Office Action mailed November 16, 2007.

All other requirements having been met , this matter is being referred to Technology Center 2872 for appropriate action on the amendment filed May 17, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

MAILED
DEC 29 2010
OFFICE OF PETITIONS

In re Application of Griffin et al. :
Application No. 11/494,291 :
Filing Date: July 26, 2006 :
Attorney Docket No. 200503345-2 :

Decision on Petition
Under 37 CFR 1.78(a)(3) and
Notice of Abandonment

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed July 6, 2010.

The petition is **dismissed**.

Background

The Office issued a non-final Office action on August 19, 2009.

A petition under 37 CFR 1.78(a)(3) was filed November 17, 2009.

The petition under 37 CFR 1.78(a)(3) was dismissed in a decision issued April 12, 2010. The decision stated the petition did not include the reference required under 37 CFR 1.78(a)(2)(i) because the amendment filed with the petition was unacceptable.

The Office issued a final Office action on May 3, 2010.

The instant renewed petition under 37 CFR 1.78(a)(3) was filed July 6, 2010.

Discussion

The instant petition is accompanied by a new amendment. The new amendment corrects the problem which rendered the prior amendment unacceptable. However, the new amendment cannot be accepted.

The Office issued a final Office action on May 3, 2010, three weeks after the Agency issued the decision dismissing the prior petition. As a result, the new amendment is only acceptable if the amendment is a proper reply under 37 CFR 1.113.

The examiner has reviewed the July 6, 2010 amendment and determined the amendment raises issues that will require further search and/or consideration. Therefore, the amendment is not a proper reply under 37 CFR 1.113. An unofficial draft of an Advisory Action prepared by the examiner is attached.

Since the July 6, 2010 amendment is improper, the renewed petition does not include a proper reference under 37 CFR 1.78(a)(2)(i) and cannot be granted.

Unfortunately, as discussed below, the application appears to currently be abandoned.

As previously stated, the Office mailed a final Office action on May 3, 2010. The only reply filed in response to the final Office action was the July 6, 2010, which the examiner has determined is an improper reply to the final Office action. Therefore, since the amendment was filed within two months of the date the Office mailed the final Office action[1] and the Office never mailed an advisory action, the application became abandoned on November 4, 2010.

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

A reply filed with the 37 CFR 1.137(b) petition can consist of:

1. A request for continued examination ("RCE"),
2. A request for reconsideration under 37 CFR 1.78(a)(3), and
3. An amendment to add the requested priority claim or a reference in the RCE and petition to the July 6, 2010 amendment.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the instant application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

By Internet: A request for reconsideration may be filed electronically using EFS Web.[2] Document Code "PET.OP" should be used if the request is filed electronically.

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[1] June 3, 2010, was a Saturday, June 4, 2010, was a Sunday, and June 5, 2010, was a federal holiday.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Unofficial Draft of Advisory Action

cc: Mannava & Kang, PC
Suite 300
11240 Waples Mill Road
Fairfax, VA 22030

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/494,291	**Applicant(s)** GRIFFIN ET AL.	
	Examiner TRONG NGUYEN	**Art Unit** 2436	

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

THE REPLY FILED 06 July 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: *1-7,9-14,16,17 and 19*.
   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: _____.

/T N/
Examiner, Art Unit 2436

Continuation of 3. NOTE: The proposed amendment seeking to add a priority claim will not be entered because it would require further consideration and/or search.

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OFFICE OF PETITIONS

In re Application of Griffin et al. :
Application No. 11/494,291 : Decision on Petitions
Filing Date: July 26, 2006 :
Attorney Docket No. 200503345-2 :

This is a decision on the petition under 37 CFR 1.137(b) and the petition under 37 CFR 1.78 filed February 8, 2011.

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

The petition under 37 CFR 1.78(a)(3) is **granted**.

Background

The Office issued a non-final Office action on August 19, 2009.

A petition under 37 CFR 1.78(a)(3) was filed November 17, 2009. The petition under 37 CFR 1.78(a)(3) was dismissed in a decision issued April 12, 2010. The decision stated the petition did not include the reference required under 37 CFR 1.78(a)(2)(i) because the amendment filed with the petition was unacceptable.

The Office issued a final Office action on May 3, 2010.

A renewed petition under 37 CFR 1.78(a)(3) was filed July 6, 2010. The Office issued a decision dismissing the renewed petition on December 29, 2010. The decision stated,

> The instant petition is accompanied by a new amendment. The new amendment corrects the problem which rendered the prior amendment unacceptable. However, the new amendment cannot be accepted.
>
> The Office issued a final Office action on May 3, 2010, three weeks after the Agency issued the decision dismissing the prior petition. As a result, the new amendment is only acceptable if the amendment is a proper reply under 37 CFR 1.113.

The examiner has reviewed the July 6, 2010 amendment and determined the amendment raises issues that will require further search and/or consideration. Therefore, the amendment is not a proper reply under 37 CFR 1.113. An unofficial draft of an Advisory Action prepared by the examiner is attached.

Since the July 6, 2010 amendment is improper, the renewed petition does not include a proper reference under 37 CFR 1.78(a)(2)(i) and cannot be granted.

Unfortunately, as discussed below, the application appears to currently be abandoned.

As previously stated, the Office mailed a final Office action on May 3, 2010. The only reply filed in response to the final Office action was the July 6, 2010, which the examiner has determined is an improper reply to the final Office action. Therefore, since the amendment was filed within two months of the date the Office mailed the final Office action[1] and the Office never mailed an advisory action, the application became abandoned on November 4, 2010.

The instant petitions were filed on February 8, 2011.

The Petition Under 37 CFR 1.137(b)

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 is accompanied by a request for continued examination which identifies the July 6, 2010 amendment as the required submission.

As to item (2), the petition states the petition fee is being paid concurrently with the petition, but Office records fail to indicate the fee was received with the petition. Therefore, the $1,620 fee has been charged to Deposit Account 08-2025 per the general fee authorization in the petition.

As to item (3), the petition includes the required statement of unintentional delay.

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

In view of the prior discussion, the petition satisfies the requirements of 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

[1] June 3, 2010, was a Saturday, June 4, 2010, was a Sunday, and June 5, 2010, was a federal holiday.

The Petition Under 37 CFR 1.78(a)(3)

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

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

All of the above requirements have been satisfied and 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 the application 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.

This application is being forwarded to Technology Center Art Unit 2436 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/494,291	07/26/2006	2436	1330	200503345-2	19	4

CONFIRMATION NO. 9085

CORRECTED FILING RECEIPT

22879
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

OC000000046918042

Date Mailed: 04/04/2011

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

Applicant(s)

Jonathan Griffin, Bristol, UNITED KINGDOM;
Andrew Patrick Norman, Bristol, UNITED KINGDOM;
Richard James Smith, Bristol, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number 022879

Domestic Priority data as claimed by applicant

This application is a CIP of 10/833,057 04/28/2004 PAT 7,796,515

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
UNITED KINGDOM 0520711.3 10/12/2005

If Required, Foreign Filing License Granted: 08/16/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/494,291**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Propagation of malicious code through an information technology network

Preliminary Class

726

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 20 2010

OFFICE OF PETITIONS

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

In re Application of :
Olusegun Johnson Ilegbusi et al. :
Application No. 11/494,299 : DECISION ON PETITION
Filed: July 27, 2006 :
Attorney Docket No. **292102-1090** :

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 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 22, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

The petition is hereby **GRANTED**.

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

This application is being referred to Technology Center AU 3768 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis TN 38132

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of
Kidong Yu et al.
Application No. 11/494,311
Filed: July 27, 2006
Attorney Docket No. 31132.524 / P0025083.00

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, May 14, 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 9, 2010 (date of mailing of the Advisory Action).

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

This application is being referred to Technology Center AU 3775 for appropriate action by the Examiner in the normal course of business on the RCE received November 19, 2010.

/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
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.
11/494,543	07/28/2006	Shoichi Hayasaka	294322US2	2017

22850 7590 09/21/2010

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

EXAMINER	
BEAULIEU, YONEL	

ART UNIT	PAPER NUMBER
3661	

NOTIFICATION DATE	DELIVERY MODE
09/21/2010	ELECTRONIC

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

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

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

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

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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SEP 20 2010

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

In re Application of	:	
Shoichi HAYASAKA et al.	:	DECISION ON PETITION
Application No. 11/494,543	:	UNDER 37 CFR §1.181
Filed: July 28, 2006	:	
For: POINT-SEQUENCE APPROXIMATION METHOD AND APPARATUS	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed March 26, 2010 requesting consideration of the Information Disclosure Statement filed July 28, 2006.

The petition is **DISMISSED AS MOOT.**

A review of the file record indicates that the office action of July 23, 2010 considered the Information Disclosure Statement as requested.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Tom Black at (571) 272-6956.

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571)-272-5250

tb/lm: 8/24/10

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 21, 2010

Patent No. : 7,782,729 B2
Appl. No. : 11/494,624
Inventor(s) : Taku Hoshizawa, et al.
Issued : August 24, 2010
Title : **DIGITAL DATA RECORDING METHOD AND DATA RECORDING/REPRODUCING APPARATUS**
Docket No. : **058799-0172**

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Patent No. 7,782,729 :
Application No. 11/494,624 :
Filed: July 28, 2006 : ON PETITION
Issued: August 24, 2010 :
Attorney Docket No. 058799-0172 :

This is a decision on the petition filed October 22, 2010, 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**.

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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MARTIN D. MOYNIHAN d/b/a PRTSI, INC
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

APR 0 9 2012

OFFICE OF PETITIONS

In re Application of

Nicky Pappo
Application No. 11/494,647
Filed: July 28, 2006
Attorney Docket No. 32229

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 1, 2012.

The request is **APPROVED**.

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

The request was signed by Martin D. Moynihan on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application 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 February 23, 2012 that requires a reply from the applicant.

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

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

cc: NICKY PAPPO
87 EINSTEIN STREET
HAIFA 34602 ISRAEL

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
11/494,647	07/28/2006	Nicky Pappo	32229

CONFIRMATION NO. 1258

POWER OF ATTORNEY NOTICE

67801
MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

OC000000053593653

Date Mailed: 04/06/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/01/2012.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

MAILED

AUG 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Himmelsbach et al.	:	
Application No. 11/494,926	:	ON PETITION
Filed: July 28, 2006	:	
Attorney Docket No. 01-1501-1-C1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/826,927.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JOHN A. SOPP
220 CLRENDON BLVD., SUITE 1400
ARLINGTON, VA 22201

UNITED STATES 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
CHARLENA THORPE INC.
C/O CHARLENA THORPE
P.O. BOX 1601
SUWANEE GA 30024

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Roach :
Application No. 11/495,051 : DECISION
Filed: 28 July, 2006 :
Attorney Docket No. Roach 01 :

This is a decision on the petition filed on 26January, 2011, 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(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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. §1.137(b)."

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

As to the Allegations
of Unintentional Delay

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

Petitioner does not appear to have satisfied the requirements under the Rule.

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

BACKGROUND

Petitioner failed to reply timely and properly to the Notice of Missing Parts (oath/declaration, surcharge) on 18 August, 2006, with reply due absent extension of time on or before 18 October, 2006.

The application went abandoned by operation of law after midnight 18 October, 2006.

The Office mailed the Notice of Abandonment on 1 May, 2007.

Throughout the foregoing period the correspondence address of record—as specified by Applicant on deposit of the application was:

> Customer Number 5396
> Seran Fereshetian
> 1984 Audubon Drive
> Dresher PA 19025.

The named Seran Fershetian does not appear to be registered to practice before the Office, although he appears to have a Customer Number, to wit: 5396.

On 10 August and 30 September, 2009, Applicant Peter Roach, Jr., appears to have made some inquiry as to the application file history.

On 16 July, 2010, Petitioner herein submitted a revocation power of Attorney.

No further filings occurred until 26 January, 2001.

On 26 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, with a reply in the form of an oath/declaration and surcharge. It does not appear that Petitioner is in a position to make the statement of unintentional delay; there is no statement from the Applicant and none from Seran Fereshetian. Thus, more than fifty-one (51) months after abandonment and forty-four (44) months after Notice thereof, Petitioner has made an insufficient showing in support of the averment of unintentional delay with only Petitioner's statement that the Applicant placed an incorrect Customer Number—his having been 53965—on the application upon deposit, and the averment that Applicant "had general knowledge that it could take years for an application to be examined." Applicant knew or should have known that with a Customer Number associated with the application, an Applicant using a Customer Number so associated could view the application online—and had Applicant sought to do so and failed (because of the averred submission of an incorrect Customer Number), he might have contacted the Office to correct the error. Further, there is no explanation of the delay between August/September 2009 inquiries and the filing of a grantable petition, or between the July 2010 submission of a Revocation/Power of Attorney and the filing of a grantable petition—with the result that the applicant remained abandoned more

than four years. Thus, Petitioner has failed to make the showing of unintentional delay as required.

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

Petitioner 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 AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

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

---

[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.

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

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(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE LAW OFFICE OF
CHARLENA THORPE INC.
C/O CHARLENA THORPE
P.O. BOX 1601
SUWANEE GA 30024

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application of :
Roach :
Application No. 11/495,051 : DECISION
Filed: 28 July, 2006 :
Attorney Docket No. Roach 01 :

This is a decision on the petition filed on 25 July, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b) .

NOTE:

The record (including the petitions filed on 26 January and 25 July, 2011) does not necessitate a finding that the delay between midnight 18 October, 2006 (the date of abandonment), and 25 July, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Peter Roach and his Counsel Charlena L. Thorpe (Reg. No. 48,035) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

Petitioner failed to reply timely and properly to the Notice of Missing Parts (oath/declaration, surcharge) mailed on 18 August, 2006, with reply due absent extension of time on or before 18 October, 2006.

The application went abandoned by operation of law after midnight 18 October, 2006.

The Office mailed the Notice of Abandonment on 1 May, 2007.

Throughout the foregoing period the correspondence address of record—as specified by Applicant on deposit of the application was:

> Customer Number 5396
> Seran Fereshetian
> 1984 Audubon Drive
> Dresher PA 19025.

The named Seran Fershetian does not appear to be registered to practice before the Office, although he appears to have a Customer Number, to wit: 5396.

On 10 August and 30 September, 2009, Applicant Peter Roach, Jr., appears to have made some inquiry as to the application file history.

On 16 July, 2010, Petitioner herein submitted a revocation power of Attorney.

No further filings occurred until 26 January, 2011.

On 26 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, with a reply in the form of an oath/declaration and surcharge. It did not appear that Petitioner/Counsel was in a position to make the statement of unintentional delay; there is no statement from the Applicant and none from Seran Fereshetian. Thus, more than fifty-one (51) months after abandonment and forty-four (44) months after Notice thereof, Petitioner made an insufficient showing in support of the averment of

unintentional delay with only Petitioner's statement that the Applicant placed an incorrect Customer Number—his having been 53965—on the application upon deposit, and the averment that Applicant "had general knowledge that it could take years for an application to be examined." Applicant knew or should have known that with a Customer Number associated with the application, an Applicant using a Customer Number so associated could view the application online—and had Applicant sought to do so and failed (because of the averred submission of an incorrect Customer Number), he might have contacted the Office to correct the error. Further, there is no explanation of the delay between August/September 2009 inquiries and the filing of a grantable petition, or between the July 2010 submission of a Revocation/Power of Attorney and the filing of a grantable petition—with the result that the applicant remained abandoned more than four years. Thus, Petitioner failed to make the showing of unintentional delay as required—the petition was dismissed on 24 May, 2011.

On Monday, 25 July, 2011, Petitioner re-advanced her petition, this time with a statement as to unintentional delay by Applicant that he inserted the incorrect Customer Number, and so directed mailings to an incorrect correspondence address. The remaining requirements under the rule—petition, fee, reply—were previously submitted.

> *As noted above, the record (including the petitions filed on 26 January and 25 July, 2011) does not necessitate a finding that the delay between midnight 18 October, 2006 (the date of abandonment), and 25 July, 2011 (the date of the filing of grantable petition), was not unintentional.*
>
> *Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Peter Roach and his Counsel Charlena L. Thorpe (Reg. No. 48,035) when accepting Petitioners' representation that the delay in filing the response was unintentional.*[2]

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

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts

---

[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[5]))

As to Allegations of Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

The instant application is released to the Office of Patent Application Processing (OPAP) 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 OPAP in response to this decision. It is

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

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

noted that all inquiries with regard to status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

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

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AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
Flam, et al. :
Application No. 11/495,098 : ON REQUEST FOR
Filed: July 28, 2006 : RECONSIDERATION OF
Attorney Docket Number: 048123-0104 : PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed June 18, 2010. Applicants believe that they should be accorded an additional PTA of 427 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 at the time of the mailing of the Notice of Allowance is **five hundred ninety-nine (599) days** (604 days of PTO delay, reduced by 5 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.

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KUSNER & JAFFE
PARAGON CENTER II
6150 PARKLAND BOULEVARD
SUITE 105
MAYFIELD HEIGHTS, OH 44124

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Application of :
Hans Peter Meier :
Application No. 11/495,141 :
Filed: July 28, 2006 :
Attorney Docket No. BE9789US :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Searete LLC
Suite 110
1756-114th Ave. S.E.
Bellevue, WA 98004

Mail Date: 08/24/2010

Applicant	: W. Daniel Hillis	: DECISION ON REQUEST FOR
Patent Number	: 7656569	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/495,167	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **456** 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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Alexandria, VA 22313-1450
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THE ECLIPSE GROUP
6345 BALBOA BLVD., SUITE 325
ENCINO, CA 91316

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Dirk **LAPPE**, et al :
Application No. 11/495,168 : DECISION ON PETITION
Filed: July 28, 2006 :
Attorney Docket No. HI09037CIP :
(P01040USP)

This is a decision on the petition under 37 CFR 1.59(b), filed May 10, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that a document filing, filed April 12, 2010, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

A review of the file history here indicates that a proper response dated March 10, 2010 was filed, and the filing dated April 12, 2010 represents a duplicative unnecessary filing for which expungement would be proper to avoid confusion to the record. The petition is therefore granted. The required fee of $200.00 has been charged to Deposit Account 23-1925.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Publicly available Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 11/495,168 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

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

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OCT 25 2011

OFFICE OF PETITIONS

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of :
Holger Tank, et al. :
Application No. 11/495,228 : ON PETITION
Filed: July 28, 2006 :
Attorney Docket No. 64,006A :

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 11, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the

submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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 September 8, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

This application is being referred to Technology Center AU 1617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN J. EMANUELE, JR
BAKER & DANIELS, LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

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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.
11/495,249	07/28/2006	Richard Allen Hayes	AD7398USNA	3951

23906 7590 11/25/2011

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1125
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER	
MERSHON, JAYNE L	

ART UNIT	PAPER NUMBER
1728	

NOTIFICATION DATE	DELIVERY MODE
11/25/2011	ELECTRONIC

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

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

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

PTO-Legal.PRC@usa.dupont.com

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11/25/2011

wk

Mailed :

In re Application of : DECISION ON
Hayes et al. : PETITION
Serial No. 11/495,249 :
Filed: July 28, 2006 :
For: **SOLAR CELL ENCAPSULANT LAYERS WITH ENHANCED STABILITY AND ADHESION**

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 filed on April 15, 2011. The Office Action dated March 16, 2011 withdraws claims 32-34, 39, 42, and 44 from consideration as being directed to a non-elected invention. The reason presented is that they are directed to an invention that is independent or distinct from the invention originally claimed. The Examiner asserts that newly amended claim 32, 39 and 42, plus claims 33 and 34 which depend from claim 32, are directed to an invention this is independent or distinct from the originally claimed invention.

The Examiner in an interview on June 13, 2011 agreed to withdraw the constructive election.

DECISION

The petition is **DISMISSED**.

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

Mark D. Kuller
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WILMINGTON DE 19805

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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In re Application of :
Evans et al. :
Application No. 11/495,263 : ON APPLICATION FOR
Filed: July 27, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. SALK2270-6 :
(088802-5221) :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 CFR § 1.705(b), filed May 16, 2011. Applicants submit that the patent term adjustment to be indicated on the patent is one thousand two hundred twenty-one (1221) days, not three hundred eighty (380) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants dispute the period of reduction of 70 days pursuant to 37 CFR 1.704(c)(8) for the filing of an Information Disclosure Statement (IDS) on February 23, 2010 after applicants filed a reply on December 15, 2009 to a non-final Office action. Applicants assert no reduction for applicant delay is in order because the IDS submitted on February 23, 2010 purportedly fulfills all of the requirements under 37 CFR 1.704(d).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake

the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **DISMISSED.**

On February 28, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 380 days.

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

Applicants object to the Office's entry of a 70 day reduction for the Information Disclosure Statement (IDS) filed February 23, 2010. Applicants argue that the reduction was improper because the "...IDS submitted on Feb.23, 2010 fulfills all of the requirements of § 1.704(d)."

The issue is whether or not the statement in the IDS filed on February 23, 2010 constitutes a proper statement under 37 CFR 1.704(d).

The February 23, 2010 IDS included a statement certifying,

> The undersigned hereby states in accordance with 37 CFR 1.97(e)(1) that each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of this Statement.

37 CFR 1.704(d) states,

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The statement found in the IDS Transmittal letter, filed February 23, 2010, is not a proper statement under 37 CFR 1.704(d). No portion of the statement addresses the non-receipt of the communication by any individual designated in 1.56(c) more than thirty days prior to the filing of the IDS.

Therefore, pursuant to 37 CFR § 1.704(c)(8), the Office properly entered a period of reduction of 70 days, counting the number of days in the period beginning on the day after the date the

initial reply was filed, December 16, 2009, and ending on the date that the IDS was filed, February 23, 2010.

In view thereof, the determination of patent term adjustment at the time of mailing of the Notice of Allowance remains **380 days** (529 days of Office delay - 149 days of Applicant delay).

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) is required and will not be waived. Deposit account no. 19-0741 will be charged $200.00.

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

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

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

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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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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SEP 08 2011

OFFICE OF PETITIONS

In re Patent of Evans et al. :
Patent No. 7,972,782 :
Issued: July 5, 2011 :
Application No. 11/495,263 : ON APPLICATION FOR
Filed: July 27, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. SALK2270-6 :
(088802-5221) :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 CFR § 1.705(b), filed September 2, 2011. As the patent has issued, the request is properly treated under 37 CFR 1.705(d). Patentees submit that the patent term adjustment to be indicated on the patent is one thousand one hundred fifty-eight (1158) days, not one thousand eighty-eight (1088) days.

Patentees dispute the period of reduction of 70 days pursuant to 37 CFR 1.704(c)(8) for the filing of an Information Disclosure Statement (IDS) on February 23, 2010 after applicants filed a reply on December 15, 2009 to a non-final Office action. Patentees assert their timely submission of an Information Disclosure Statement on February 23, 2010 was improperly characterized as delay and request the 70 day reduction be removed.

Patentees argue that the reduction was improper because the IDS submitted on February 23, 2010 fulfills all of the requirements of § 1.704(d).

The issue is whether or not the statement in the IDS filed on February 23, 2010 constitutes a proper statement under 37 CFR 1.704(d).

The February 23, 2010 IDS included a statement certifying,

> The undersigned hereby states in accordance with 37 CFR 1.97(e)(1) that each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of this Statement.

37 CFR 1.704(d) states,

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The statement found in the IDS Transmittal letter, filed February 23, 2010, is not a proper statement under 37 CFR 1.704(d). No portion of the statement addresses the non-receipt of the communication by any individual designated in 1.56(c) more than thirty days prior to the filing of the IDS.

Therefore, pursuant to 37 CFR § 1.704(c)(8), the Office entered a period of reduction of 70 days, counting the number of days in the period beginning on the day after the date the initial reply was filed, December 16, 2009, and ending on the date that the IDS was filed, February 23, 2010.

In view thereof, the patent properly issued with a revised patent term adjustment of one thousand eighty-eight (1088 days (529 days of A delay + 708 days of B delay - 149 (35 + 70 + 44) days of Applicant delay). No change to the PTA will be made.

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(d) is required and will not be waived.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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VAN PELT, YI & JAMES LLP AND APPLE COMPUTER, INC.
10050 N. FOOTHILL BOULEVARD
SUITE 200
CUPERTINO CA 95014

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Lewallen STEPHEN R et al. :
Application No. 11/495,272 : DECISION ON PETITION
Filed: July 28, 2006 :
Attorney Docket No. **P4259US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 05, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 16, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office action of February 16, 2010 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2627 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Paper No.

GREENBERG TRAURIG, LLP
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK NJ 07932

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OCT 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Cerwin et al. :
Application No. 11/495,303 : ON APPLICATION FOR
Filed: July 28, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 016434-093300 :
(97017-244 :

This is in response to the Request for Reconsideration of the Patent Term Adjustment under 37 C.F.R. § 1.705 filed May 10, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least nine hundred thirty-seven (937) days, not five hundred fifty-two (552) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

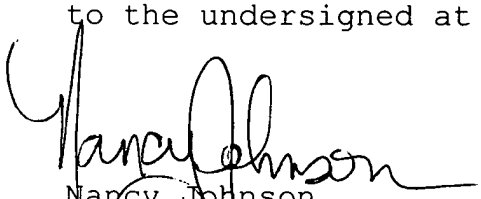
The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

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

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 08/04/2010

Applicant	: Raja Rao Tadimeti	: DECISION ON REQUEST FOR
Patent Number	: 7656812	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/495,405	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **768** 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.
11/495,457	07/31/2006	Byeong Moon Jeon	6111-000004/US/DVA	4103

30593 7590 11/10/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
GE, YUZHEN	
ART UNIT	**PAPER NUMBER**
2624	

DATE MAILED: 11/10/2010

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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON et al :
Application No. 11/495,457 : DECISION ON REQUEST
Filed: July 31, 2006 :
For: **CALCULATION METHOD FOR PREDICTION MOTION VECTOR** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed September 09, 2010.

Applicants request a third period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 11/907,460. As stated in Applicants' previous Petition to Suspend, The art cited against the claims in the subject application is the same as art cited against the claims in Application No. 11/907,460. The claims include at least one feature commensurate in scope with at least one feature claimed in Application No. 11/907,460. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 11/907,460. As such, the outcome of the Appeal in Application No. 11/907,460 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

/Michael Horabik/

Michael Horabik, TQAS
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/495,457	07/31/2006	Byeong Moon Jeon	6111-000004/US/DVA	4103

30593 7590 03/22/2011

HARNESS, DICKEY & PIERCE, P.L.C.
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RESTON, VA 20195

EXAMINER	
GE, YUZHEN	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
03/22/2011	PAPER

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON et al :
Application No. 11/495,457 : DECISION ON REQUEST
Filed: July 31, 2006 :
For: **CALCULATION METHOD FOR PREDICTION MOTION VECTOR** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed March 09, 2011.

Applicants request a fourth period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 11/907,460. As stated in Applicants' previous Petition to Suspend, The art cited against the claims in the subject application is the same as art cited against the claims in Application No. 11/907,460. The claims include at least one feature commensurate in scope with at least one feature claimed in Application No. 11/907,460. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 11/907,460. As such, the outcome of the Appeal in Application No. 11/907,460 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

/Wellington Chin/

Wellington Chin, TQAS
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/495,457	07/31/2006	Byeong Moon Jeon	6111-000004/US/DVA	4103

30593 7590 09/22/2011

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EXAMINER	
GE, YUZHEN	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/22/2011	PAPER

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

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

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P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON et al :
Application No. 11/495,457 : DECISION ON REQUEST
Filed: July 31, 2006 :
For: **CALCULATION METHOD FOR PREDICTION MOTION VECTOR** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed September 09, 2011.

Applicants request a fifth period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 11/907,460. As stated in Applicants' previous Petition to Suspend, The art cited against the claims in the subject application is the same as art cited against the claims in Application No. 11/907,460. The claims include at least one feature commensurate in scope with at least one feature claimed in Application No. 11/907,460. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 11/907,460. As such, the outcome of the Appeal in Application No. 11/907,460 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed to Wellington Chin, Quality Assurance Specialist, at (571) 272-3134).

John LeGuyader, Director
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/495,457	07/31/2006	Byeong Moon Jeon	6111-000004/US/DVA	4103

30593 7590 04/11/2012

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
GE, YUZHEN	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
04/11/2012	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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P.O. BOX 8910
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In re Application of
JEON, BYEONG MOON et al
Application No. 11/495,457
Filed: July 31, 2006
For: **CALCULATION METHOD FOR PREDICTION MOTION VECTOR**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed March 5, 2012.

Applicants request a sixth period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 11/907,460. As stated in Applicants' previous Petition to Suspend, The art cited against the claims in the subject application is the same as art cited against the claims in Application No. 11/907,460. The claims include at least one feature commensurate in scope with at least one feature claimed in Application No. 11/907,460. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 11/907,460. As such, the outcome of the Appeal in Application No. 11/907,460 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

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).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. 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.

Any inquiry regarding this decision should be directed to Wellington Chin, Quality Assurance Specialist, at (571) 272-3134).

John LeGuyader, Director
Technology Center 2600
Communications

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Decision Date:	April 15, 2012
In re Patent No.	7975383
Issue Date:	12-Jul-2011
Application No	11495470
Filed date	28-Jul-2006
Attorney Docket No	81141986

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed April 15, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

Ford Global Technologies, LLC

Change Assignment Information to the Following:

Ford Motor Company and Vari-Form, Inc.

The request is GRANTED.

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

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificate of Correction Branch will be notified of this decision granting the request under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))**
Application Number	11495470
Filing Date	28-Jul-2006
First Named Inventor	Lou Ratsos
Attorney Docket Number	81141986
Title of Invention	DOUBLE HYDROFORMED TUBE WITH INTEGRAL REINFORCEMENT

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 7975383 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

☒ I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Correction of Assignee

Current Assignment Listed (240 char limit)
The assignment information is currently listed as:

Ford Global Technologies, LLC

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

Ford Motor Company and Vari-Form, Inc.

☒ As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).

◯ Applicant(s) status remains as OTHER THAN small entity.

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

◯ Applicant(s) status remains as SMALL ENTITY.

◉ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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 request

◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Larry W. Miller/
Name	Larry W. Miller
Registration Number, if applicable	29417

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THORPE NORTH & WESTERN, LLP.
P.O. BOX 1219
SANDY, UT 84091-1219

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of
William Thomas Zohlmann, Jr.
Application No. 11/495,497
Filed: July 28, 2006
Attorney Docket No. 00576-34354

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 17, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 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 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 statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

This application is being referred to Technology Center AU 3772 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Yeong Tae No, et al. :
Application No. 11/495,519 : DECISION ON PETITION
Filed: July 31, 2006 :
Attorney Docket No.: 110989-06089913 :

This is a decision on the petition, filed September 22, 2009, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 10, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 10, 2008. A Notice of Abandonment was mailed on March 5, 2009.

Petitioner asserts that the Notice dated November 10, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of November 10, 2008. In this regard, a proper Power of Attorney was filed on August 20, 2008, which is prior to the mailing of the Notice of Allowance of February 10, 2009. Unfortunately, Office records were not updated to reflect the change, including the change of correspondence address to the specified customer number. As the Notice was mailed to an incorrect address, the Notice of Abandonment mailed March 5, 2009 is hereby vacated and the holding of abandonment withdrawn.

Receipt is acknowledged of the requisite issue and publication fees on September 22, 2009.

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

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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INGRASSIA FISHER & LORENZ, P.C.
7010 E. COCHISE ROAD
SCOTTSDALE AZ 85253

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :
Andrew J. Wardrop et al. :
Application No. 11/495,590 : DECISION ON PETITION
Filed: July 31, 2006 :
Attorney Docket No. 014.7703C1 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, September 28, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 29, 2010. A Notice of Abandonment was mailed on April 8, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Terminal Disclaimer, with the required fee of $140, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the Terminal Disclaimer is accepted as being unintentionally delayed.

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

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received April 15, 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
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.
11/495,792	07/28/2006	Paul D. Mannheimer	P0402A-05/FLE(TYHC:0129-3	3603

7590 01/14/2011

NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 Gunbarrel Avenue
Boulder, CO 80301

EXAMINER	
WINAKUR, ERIC FRANK	

ART UNIT	PAPER NUMBER
3768	

NOTIFICATION DATE	DELIVERY MODE
01/14/2011	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 14, 2011

NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 Gunbarrel Avenue
Boulder CO 80301

In re Application of	:	
Paul D. Mannheimer et al.	:	**DECISION ON PETITION**
Application No. 11495792	:	
Filed: 07/28/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. P0402A-05/FLE(TYHC:0129-3	:	***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) July 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.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte KURT F. STEPHAN *et al*

Application 11/495,877
Technology Center 1600

DECISION ON RENEWED PETITION

This is a decision on the "Renewed Petition Under 37 CFR 1.137(b)," filed April 7, 2010 ("Renewed Petition"). The Renewed Petition seeks revival of this application and reinstatement of the appeal.

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

FINDINGS

1. On July 7, 2008, Appellants filed an Appeal Brief.

2. On July 21, 2008, the Patent Appeals Center entered a Notification of Non-Compliant Appeal Brief.

3. On May 14, 2009, the Examiner entered a Notice of Abandonment noting that no response had been received to the Notification of Non-Compliant Appeal Brief.

4. On October 13, 2009, Appellants filed a Petition for Revival under Rule 1.137(b), and a Reply to Notification of Non-Compliant Appeal Brief.

5. On March 10, 2010, the Office of Petitions dismissed the Petition because it was not properly signed.

6. On April 7, 2010, Appellants filed the present Renewed Petition properly signed by both applicants. Included with the Renewed Petition was a supplement to the Appeal Brief correcting the errors noted in the Notification of Non-Compliant Appeal Brief.

7. The Renewed Petition includes all of the required elements as set forth in Rule 1.137(b), specifically:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

DISCUSSION

As indicated, Appellants have complied with all of the requirements of Rule 1.137(b) for reviving an application abandoned unintentionally.

DECISION

In view of the foregoing, the Renewed Petition is GRANTED. The supplement to the Appeal Brief has been entered and the appeal will be returned to the Examiner for preparation of the Examiner's Answer.

James T. Moore
Acting Chief Administrative Patent Judge

Graybeal Jackson LLP
155 – 108th Avenue NE
Suite 350
Bellevue, WA 98004-5973

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: 50325-1304	
Application Number: 11/495,910	Filing Date (or 371(b) or (f) Date): July 27, 2006
Patent Number: 7,668,161	Issue Date: February 23, 2010
First Named Inventor: Dewi Gerwyn Morgan	
Title: Classifying Data Packet Protocol Values	

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

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

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

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

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

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

☐ *Total of _____ forms are submitted.

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

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

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 08/13/2010

Applicant	: Dewi Gerwyn Morgan	: DECISION ON REQUEST FOR
Patent Number	: 7668161	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/495,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **791** 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

Tyco Healthcare Group LP
555 Long Wharf Drive
Mail Stop 8-N1
New Haven CT 06511

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Application of :
WHITMAN et al. :
Application No. 11/495,920 : DECISION ON PETITION
Filed: 07/27/2006 :
Attorney Docket No. H-PM-00028 (1800-28) :
[114 :

This is a decision on the petition under 37 CFR 1.78(a)(3) filed November 17, 2010, to accept an unintentionally delayed benefit claim under 35 U.S.C. 120 to prior-filed nonprovisional applications.

The petition under 37 CFR 1.78(a)(3) is **dismissed.**

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

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(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 proposed amendment to claim benefit to the prior-filed applications cannot be entered because the examiner has determined that the proposed amendment raises new issues that would require further consideration and/or search. Accordingly, submission of a Request for Continued Examination (RCE) and fee are required as a condition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3).

Moreover, the reference to add the 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.[1] 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). *See* 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), a RCE and fee, and a Supplemental Application Data Sheet or an amendment (complying with 37 CFR 1.121, 37 CFR 1.76 and 37 CFR 1.33(b))[2] to correct the above matters are required. No additional petition fee is necessary for filing a renewed petition under 37 CFR 1.78(a)(3).

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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[1] The reference to Application No. 60/703,227 is acceptable because the incorporation by reference statement was present on filing.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tyco Healthcare Group LP
555 Long Wharf Drive
Mail Stop 8-N1
New Haven CT 06511

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
WHITMAN et al. :
Application No. 11/495,920 : DECISION ON PETITION
Filed: 07/27/2006 :
Attorney Docket No. H-PM-00028 (1800-28) :
[114 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed February 24, 2011, to accept an unintentionally delayed benefit claim under 35 U.S.C. 120 to prior-filed nonprovisional applications.

The petition is **GRANTED.**

A petition for acceptance of a delayed benefit claim 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 benefit claim 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.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. 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 3779 for consideration by the examiner of applicant's entitlement to claim benefit under 35 U.S.C. 120 to the prior-filed applications.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/495,920	07/27/2006	3779	615	H-PM-00028 (1800-28) [114	22	1

CONFIRMATION NO. 3369

91478
Tyco Healthcare Group LP
555 Long Wharf Drive
Mail Stop 8-N1
New Haven, CT 06511

CORRECTED FILING RECEIPT

Date Mailed: 02/28/2011

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)

Michael P. Whitman, New Hope, PA;
Donald T. Malinouskas, Monroe, CT;

Power of Attorney: The patent practitioners associated with Customer Number 91478

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/703,227 07/27/2005
and is a CIP of 10/099,634 03/15/2002
which is a CIP of 09/887,789 06/22/2001 PAT 7,032,798
which is a CIP of 09/836,781 04/17/2001 PAT 6,981,941
which is a CIP of 09/723,715 11/28/2000 PAT 6,793,652
which is a CIP of 09/324,451 06/02/1999 PAT 6,315,184
and is a CIP of 09/324,452 06/02/1999 PAT 6,443,973
and is a CIP of 09/351,534 07/12/1999 PAT 6,264,087
and is a CIP of 09/510,923 02/22/2000 PAT 6,517,565
which is a CIP of 09/324,452 06/02/1999 PAT 6,443,973
and is a CIP of 09/510,927 02/22/2000 PAT 6,716,233
which is a CIP of 09/324,452 06/02/1999 PAT 6,443,973
and is a CIP of 09/510,932 02/22/2000 PAT 6,491,201

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: 08/16/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/495,920**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Shaft, e.g., for an electro-mechanical surgical device

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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DW Mar-11

HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Bolansa et al. :
Application Number: 11/495,958 : DECISION ON PETITION
Filing Date: 07/28/2006 :
Attorney Docket Number: :
HSJ920050159US1 :

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

The petition is **GRANTED**.

This application became abandoned on April 18, 2010, for failure to submit a timely and proper response to the Office action mailed in accordance with Ex parte Quayle[1] mailed on February 17, 2010, which set a two (2) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 6, 2010.

On December 21, 2010, the subject petition was filed, accompanied by a terminal disclaimer.

Petitioner's reply filed on December 21, 2010.

The petition fee and terminal disclaimer fee will be charged to counsel's deposit account, as authorized in the present petition.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting

[1] 1935 C.D. 11, 453 OG. 213.

the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application file is being referred to Technology Center Art Unit 2627 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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THE LUTHER LAW FIRM, PLC
10575 N 114TH STREET
SUITE 103
SCOTTSDALE AZ 85259

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Gerald J. Grott	:	
Application No. 11/495,979	:	DECISION ON PETITION
Filed: July 28, 2006	:	
Attorney Docket No. ECYC-04	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, October 28, 2009, 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 timely obtained. Accordingly, the application became abandoned on April 29, 2010. A Notice of Abandonment was mailed June 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 (previously paid on April 27, 2010) and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 1797 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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THE LUTHER LAW FIRM, PLC
10575 N 114TH STREET
SUITE 103
SCOTTSDALE AZ 85259

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
Gerald J. Grott :
Application No. 11/495,979 : ON PETITION
Filed: July 28, 2006
Attorney Docket No. ECYC-04 :
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 11, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement (PTO/SB/130 form) by the applicant's attorney that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1797 for action on the merits commensurate with this decision.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DINSMORE & SHOHL LLP
FIFTH THIRD CENTER, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Gian Franco Bottazzo et al.	:	
Application No. 11/496,001	:	DECISION ON PETITION
Filed: July 28, 2006	:	
Attorney Docket No. BOA 0001 PA	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, September 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 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 a RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on March 4, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

A reply in the form of an amendment after final was received on March 4, 2011. Petitioner, then filed a petition to revive with a RCE, with the submission of the previously filed amendment of March 4, 2011 to complete the response, therefore the extension of time fee is not necessary.

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

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 March 25, 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.
11/496,006	07/28/2006	Joshua Matthew Williams	18602-10959 (P3680USX1)	2457

61520 7590 10/07/2010

APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

EXAMINER	
DASGUPTA, SOUMYA	
ART UNIT	**PAPER NUMBER**
2176	

NOTIFICATION DATE	DELIVERY MODE
10/07/2010	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):

ptoc@fenwick.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
WILLIAMS, Joshua et al.
Application No. 11/496,006
Filed: July 28, 2006
For: **SEARCHING FOR COMMANDS AND OTHER ELEMENTS OF A USER INTERFACE**

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on October 19, 2006 requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 4A, 4B, 4C, 5A, 5B and 5C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition was filed with the required fee. However, there is no evidence in the file that petitioner filed 3 (three) sets of color drawings, and the specification does not contain the required notification described above.

Accordingly, the petition is **DISMISSED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of :
Piomelli et al. :
Application No. 11/496,051 : ON APPLICATION FOR
Filed: July 28, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 79828-715345 (127511US) :
Title: MODULATION OF ANXIETY THROUGH BLOCKADE OF ANANDAMIDE HYDROLYSIS :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM UNDER ADJUSTMENT DETERMINATION", filed June 21, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants contend the patent term adjustment is 1090 days.

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

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

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

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

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

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

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

---

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

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

The Office has updated the PAIR screen to reflect the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is five hundred seventeen (517) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 23, 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 five hundred forty-seven (547) days.

A review of the application history confirms that Applicants should have been assessed an additional delay of 30 days.

37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

A Notice to File Missing Parts was mailed on August 22, 2006. Applicants submitted a reply to the Notice on December 22, 2006. Pursuant to 37 CFR 1.704(b) the application is subject to 30-day reduction for applicants' delay for the period beginning on November 23, 2006 and ending on December 22, 2006.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is five hundred seventeen (517) days ((699) days of PTO delay and (182) days of Applicants delay).

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.

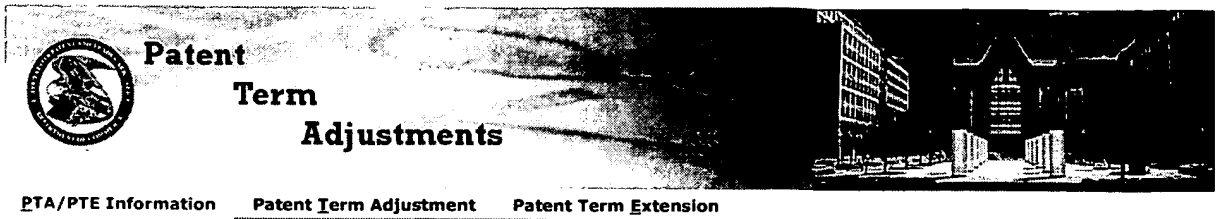
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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

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

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen



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

Application Number*: 11496051 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11496051

Application Filing Date	07/28/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	699
A Delays	699	PTO Manual Adjustment	-30
B Delays	0	Applicant Delay (APPL)	152
C Delays	0	Total PTA (days)	517

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL		Parent Action Number
74	07/19/2011		P028	Adjustment of PTA Calculation by PTO		30	0	
56	03/23/2011		MN/=.	Mail Notice of Allowance			0	
55	03/18/2011		OAR	Office Action Review			0	
54	03/18/2011		IREV	Issue Revision Completed			0	
53	03/18/2011		DVER	Document Verification			0	
52	03/18/2011		EX.A	Examiner's Amendment Communication			0	
51	03/18/2011		N/=.	Notice of Allowance Data Verification Completed			0	
50	03/18/2011		DOCK	Case Docketed to Examiner in GAU			0	
49	03/17/2011		CNTA	Allowability Notice			0	
48	01/24/2011		FWDX	Date Forwarded to Examiner			0	
47	01/20/2011	10/21/2010	A...	Response after Non-Final Action		91	45	
46	01/20/2011		XT/G	Request for Extension of Time - Granted			0	
45	07/21/2010		MCTNF	Mail Non-Final Rejection			0	
44	07/19/2010		CTNF	Non-Final Rejection			0	
37	05/14/2010		FWDX	Date Forwarded to Examiner			0	
36	05/12/2010	05/04/2010	ELC.	Response to Election / Restriction Filed		8	34	
35	05/12/2010		XT/G	Request for Extension of Time - Granted			0	
34	02/04/2010		MCTRS	Mail Restriction Requirement			0	
33	02/01/2010		CTRS	Restriction/Election Requirement			0	
32	01/21/2010		FWDX	Date Forwarded to Examiner			0	
31	01/19/2010	11/27/2009	ELC.	Response to Election / Restriction Filed		53	25	
30	01/19/2010		XT/G	Request for Extension of Time - Granted			0	
25	08/27/2009	09/28/2007	MCTRS	Mail Restriction Requirement	699		0.5	
24	08/26/2009		CTRS	Restriction/Election Requirement			0	
23	02/19/2009		PG-ISSUE	PG-Pub Issue Notification			0	
38	01/26/2009		IDSC	Information Disclosure Statement considered			0	
26	01/26/2009		M844	Information Disclosure Statement (IDS) Filed			0	
22	01/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0	
21	01/03/2009		DOCK	Case Docketed to Examiner in GAU			0	
20	01/03/2009		TSSCOMP	IFW TSS Processing by Tech Center Complete			0	
13	11/24/2008		OIPE	Application Dispatched from OIPE			0	
12	11/12/2008		PGPC	Sent to Classification Contractor			0	
11	11/12/2008		FLRCPT.U	Filing Receipt - Updated			0	
39	11/15/2007		IDSC	Information Disclosure Statement considered			0	
19	11/15/2007		RCAP	Reference capture on IDS			0	
18	11/15/2007		M844	Information Disclosure Statement (IDS) Filed			0	
9	11/15/2007		WIDS	Information Disclosure Statement (IDS) Filed			0	
10	12/22/2006		FLFEE	Payment of additional filing fee/Preexam			0	
7	12/22/2006		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0	
6	08/22/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0	
5	08/15/2006		L128	Cleared by L&R (LARS)			0	
4	08/07/2006		L198	Referred to Level 2 (LARS) by OIPE CSR			0	
3	08/07/2006		CLSS	CASE CLASSIFIED BY OIPE			0	
2	08/04/2006		SCAN	IFW Scan & PACR Auto Security Review			0	
40	07/28/2006		IDSC	Information Disclosure Statement considered			0	
17	07/28/2006		RCAP	Reference capture on IDS			0	
16	07/28/2006		M844	Information Disclosure Statement (IDS) Filed			0	
15	07/28/2006		A.PE	Preliminary Amendment			0	
14	07/28/2006		WIDS	Information Disclosure Statement (IDS) Filed			0	
1	07/28/2006		IEXX	Initial Exam Team nn			0	
0.5	07/28/2006		EFILE	Filing date			0	

Export to: Excel

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MAILED

APR 10 2012

OFFICE OF PETITIONS

Dr. Sadeg M. Faris
24 Pocantico River Road
Pleasantville NY 10570

In re Application of :
Sadeg Faris : DECISION ON PETITION
Application No. 11/496,065 :
Filed: July 28, 2006 :
Atty Docket No. Reveo-0260 :
USAAPN40 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 14, 2012.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed June 14, 2011. This Office action set a shortened statutory period for reply of one (1) month, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time considered obtained, the application became abandoned effective July 15, 2011. A courtesy Notice of Abandonment was mailed on January 11, 2012.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2812 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the election submitted on petition filed March 14, 2012.

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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Alexandria, VA 22313-1450
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SEAGER, TUFTE & WICKHEM, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,920,714 :
Issue Date: April 5, 2011 :
Application No. 11/496,166 : DECISION ON PETITION
Filed: July 31, 2006 :
Attorney Docket No. 1156.1110101 :

This is a decision on the petition under 37 CFR 1.182, filed September 8, 2011, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to April M. Wise at (571) 272-1642. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Kimberly Terrell in the Office of Data Management at (571) 272-4200.

A copy of this decision is being faxed to the Office of Data Management for issuance of duplicate Letters Patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Kimberly Terrell, Randolph Square, 9D33 (Fax No. (571) 270-9958)

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Paper No.

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

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,433,572	:	DECISION ON REQUEST
Marvin Young	:	FOR
Issue Date: October 7, 2008	:	RECONSIDERATION OF
Application No. 11/496,232	:	PATENT TERM ADJUSTMENT
Filed: July 31, 2006	:	and
Atty Docket No. **PD-0069	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.181, filed December 17, 2009, requesting correction of an omission in the domestic priority data (claim to priority to provisional application No. 60/386,084) which occurred through PTO error. Applicant further requests that provisional application No. 60/386,084 be reinstated as a separate provisional application.

The petition is **GRANTED**.

No fee is required and no fee has been charged.

Petitioner argues that due to PTO error, provisional application No. 60/386,084 was erroneously converted by the Patent Office to the instant non-provisional application No. 10/454,774 and the contents of 60/386,084 were vacated. Further, this application did not include a priority claim to provisional application No. 60/386,084, because the provisional application was no longer available on PTO records.

The record has been reviewed and it is concluded that the relief requested is warranted. The Office erred in deactivating the provisional application. Receipt of the resubmission of the provisional application filing fee, as requested, on February 3,

2010 is acknowledged. The provisional application No. 60/386,084, with a filing date of June 4, 2002, was reactivated (in response to the petition filed in a related case). On February 18, 2010, the Office of Patent Application Processing, formerly OIPE, issued a corrected filing receipt reflecting the restoration of the provisional application.

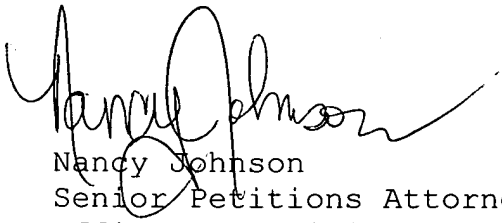
Moreover, the omission in the domestic priority data has been corrected. The claim to provisional application No. 60/386,084 under 35 U.S.C. 119(e) was properly made in the first sentence of the specification on filing of this application. This application was filed within twelve months of the filing date of the provisional application. Due to the error in deactivating the provisional application, this application did not reflect the priority claim. Thus, the claim to the provisional application is both timely and proper.

A corrected Filing Receipt, which includes the priority claim to the provisional application, is enclosed.

This application issued as a patent on October 7, 2008. Provisional application No. 60/386,084 is listed thereon under Related U.S. Application Data. In addition, the patent on the first page of the specification includes the reference to this provisional application.

There is no outstanding request for a certificate of correction. No further action on the part of the Office is required.

Any questions concerning this matter may be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
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 37:(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/496,232	07/31/2006	2881	2250	**PD-0069	20	3

CONFIRMATION NO. 6474

CORRECTED FILING RECEIPT

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC000000043003726

Date Mailed: 08/11/2010

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)

Marvin R. Young, Richardson, TX;

Assignment For Published Patent Application

Pivotal Decisions, LLC, Las Vegas, NV

Power of Attorney: The patent practitioners associated with Customer Number 23377

Domestic Priority data as claimed by applicant

This application is a DIV of 11/146,436 06/06/2005 ABN
which is a CON of 10/454,774 06/03/2003 PAT 6,920,277
which claims benefit of 60/386,084 06/04/2002

Foreign Applications

If Required, Foreign Filing License Granted: 08/17/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/496,232**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

OPTICAL BYPASS METHOD AND ARCHITECTURE

Preliminary Class

385

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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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Application of	:	
AVERA	:	
Application No. 11/496,234	:	DECISION ON PETITION
Filed: July 31, 2006	:	TO WITHDRAW
Attorney Docket No. 509/28	:	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 Matthew B. Dernier on behalf of the attorneys of record associated with Customer No. 27538.

The attorneys of record associated with Customer No. 27538 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: PEAVEY ELECTRONICS CORPORATION
5022 HARTLEY PEAVEY DRIVE
MERIDIAN MS 39305

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/496,234	07/31/2006	Donald K. Avera	509/28

CONFIRMATION NO. 6485

POWER OF ATTORNEY NOTICE

27538
GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

OC00000004829584

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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NIXON PEABODY LLP - PATENT
GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Steen, et al.
Application No. 11/496,242
Filed: July 31, 2006
Attorney Docket Number: 42446/100

: ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 2, 2010. Applicants believe that they should be accorded an additional PTA of 157 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

However, a review of the application reveals that applicants should have been accorded additional days of applicant delay pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on October 5, 2009. Applicants filed an RCE on January 5, 2010. In reply, the Office mailed a Notice of Allowance on April 2, 2010. As such, eighty-eight (88) days of applicant delay should have been assessed for the filing of the RCE pursuant to 37 CFR 1.704(c)(10).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **five hundred thirty-three (533) days** (621 days of PTO delay, reduced by 88 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.

Day : Thursday
Date: 8/26/2010

PALM INTRANET

Time: 12:54:59

PTA Calculations for Application: 11/496242			
Application Filing Date:	07/31/2006	PTO Delay (PTO):	621
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	533
PTO Delay Adjustment:	-88		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	08/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		88	
61	04/02/2010	MAIL NOTICE OF ALLOWANCE			
60	03/30/2010	ISSUE REVISION COMPLETED			
59	03/30/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	03/30/2010	DOCUMENT VERIFICATION			
57	03/29/2010	NOTICE OF ALLOWABILITY			
54	01/05/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	01/05/2010	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
52	01/05/2010	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	01/10/2010	DISPOSAL FOR A RCE / CPA / R129			
50	01/05/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	01/05/2010	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	11/02/2009	FINISHED INITIAL DATA CAPTURE			
47	10/13/2009	EXPORT TO INITIAL DATA CAPTURE			
46	10/05/2009	MAIL EXAMINER'S AMENDMENT			
45	10/05/2009	MAIL NOTICE OF ALLOWANCE			
44	10/01/2009	ISSUE REVISION COMPLETED			
43	10/01/2009	DOCUMENT VERIFICATION			
42	10/01/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	10/01/2009	EXAMINER'S AMENDMENT COMMUNICATION			
40	10/01/2009	NOTICE OF ALLOWABILITY			
		INFORMATION DISCLOSURE STATEMENT			

39	07/31/2006	CONSIDERED			
38	10/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	09/03/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	07/21/2009	DATE FORWARDED TO EXAMINER			
32	06/23/2009	RESPONSE TO ELECTION / RESTRICTION FILED			
31	06/12/2009	MAIL RESTRICTION REQUIREMENT	621		-1
30	06/11/2009	REQUIREMENT FOR RESTRICTION / ELECTION			
29	05/28/2009	CASE DOCKETED TO EXAMINER IN GAU			
28	10/30/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
27	09/18/2008	CASE DOCKETED TO EXAMINER IN GAU			
26	09/03/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
25	09/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	08/19/2008	TRANSFER INQUIRY TO GAU			
23	02/14/2008	PG-PUB ISSUE NOTIFICATION			
22	02/07/2008	TRANSFER INQUIRY TO GAU			
21	10/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
18	10/16/2007	FLAGGED FOR 5/25			
17	10/16/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16.7	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/12/2006	APPLICATION RETURN FROM OIPE			
14	10/12/2006	APPLICATION IS NOW COMPLETE			
13	09/28/2006	ADDITIONAL APPLICATION FILING FEES			
12	09/28/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	08/18/2006	APPLICATION RETURN TO OIPE			
9	08/17/2006	APPLICATION RETURN FROM OIPE			

8	08/17/2006	APPLICATION RETURN TO OIPE			
7	08/17/2006	APPLICATION RETURN FROM OIPE			
6	08/17/2006	APPLICATION RETURN TO OIPE			
5	08/17/2006	APPLICATION DISPATCHED FROM OIPE			
4	08/18/2006	APPLICATION IS NOW COMPLETE			
3	08/10/2006	CLEARED BY OIPE CSR			
2	08/04/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/31/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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OCT 05 2010

OFFICE OF PETITIONS

RYAN, MASON & LEWIS, LLP
1300 POST ROAD
SUITE 205
FAIRFIELD, CT 06824

In re Application of :
Philip L. Bohannon, et al. :
Application No. 11/496,271 : DECISION ON PETITION
Filed: July 31, 2006 :
Attorney Docket No. 21-11-6 :

This is a decision on the renewed petitions, filed August 9, 2010, which is being treated as a petition under 37 CFR 1.81, requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative a petition to revive under the unintentional provisions of 37 CFR 1.137(b).

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

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

As to the petition under 37 CFR 1.181:

A review of the record shows that this application was held abandoned for failure to timely respond to the Office letter mailed February 12, 2009. The request required a response within the time provided which could be either (1) a letter requesting not to have a first-action interview, or (2) a completed Applicant Interview Request Form (PTOL 413A) accompanied by a proposed amendment or argument. On February 12, 2009 petitioner submitted option (2).

The petition satisfies the above requirements of 37 CFR 1.181. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of February 12, 2009 is hereby **withdrawn** and the application **restored to pending status**.

As to the petition under 37 CFR 1.137(b):

In view of granting the petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment above, the petition under 37 CFR 1.137(b) is dismissed as moot and the petition fee will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 3749 for appropriate action in the normal course of business on the reply received with petition.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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AUG 05 2010

OFFICE OF PETITIONS

SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

In re Application of	:	
Blawid et al.	:	DECISION ON PETITION
Application No. 11/496,279	:	TO WITHDRAW
Filed: July 31, 2006	:	FROM RECORD
Attorney Docket No. QM000015	:	

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 17, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to 68038 was revoked by the Assignee of the patent application on July 22, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JOHN S. ECONOMOU
202 MAMARONECK AVE., THIRD FLOOR
WHITE PLAINS NY 10601

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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BRIDGESTONE AMERICAS, INC.
1200 FIRESTONE PARKWAY
AKRON, OH 44317

Mail Date: 08/30/2010

Applicant	: Thomas W. Bell	: DECISION ON REQUEST FOR
Patent Number	: 7658809	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/496,316	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **76** 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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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of :
GEOFF DOWNTON, ET AL. :
Application No. 11/496,563 : DECISION ON PETITION
Filed: July 31, 2006 :
Attorney Docket No. 92.1103 :

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.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jeremy P. Welch appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Jeremy P. Welch desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 18, 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 August 19, 2009.

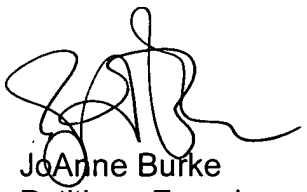
The petition is hereby **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Jeremy P. Welch
Brunel Way,
Stonehouse, Gloucestershire GL10 3SX

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/496,628	08/01/2006	Johann Hofmann	4388-0103PUS2	4641

2292 7590 06/06/2011

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
WARD, PAUL V	

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
06/06/2011	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):

mailroom@bskb.com

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JUN 0 6 2011

Andrew D. Meikle
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of	:
Hoffman et al	:Decision on Petition
Serial No.:11/496,628	:
Filed: 1 August 2006	:
Attorney Docket No.:4388-0103PUS2	:

This letter is in response to the Petition filed on 4 June 2010 under 37 C.F.R. 1.144 requesting that the restriction requirement dated 26 August 2009 be withdrawn. This letter is also in response to the Petition filed on 4 June 2010 under 37 C.F.R. 1.181 to request that the Ex Parte Quayle action dated 4 February 2010 be withdrawn.

BACKGROUND

On 25 March 2008, the examiner required restriction between Group I, the compounds of Formula I where X is S and Group II, the product of formula I where X is O.

On 25 April 2008, applicants elected Group II, with traverse.

On 9 July 2008, the examiner considered the traversal and made the restriction requirement final. Claims 1-6 (directed to products and method of making products) were indicated as allowable and Claims 7-12 (directed to method of using the products for treatment) were rejected under 35 U.S.C. 112, first paragraph for lack of enablement.

In response, applicant canceled claims 7-12, directed to the method of treatment.

On 9 March 2009, the examiner mailed a second non-final action where Claims 1-6 were rejected under 35 U.S.C. 102(b) as being anticipated by Easmon and under 35 U.S.C. 103 as being unpatentable over Easmon.

In a response filed 28 September 2010, applicants argued that Easmon does not constitute prior art.

On 26 August 2009, the examiner mailed a second restriction requirement amongst Claims 1-6 wherein Group II was further divided into Groups IIa to Group IIe depending upon the heterocyclic ring variable of Het.

On 28 September 2009, applicants elected Group IIb with traverse.

On 4 February 2010, the examiner mailed an Ex Parte Quayle action which Claims 1 and 3-6 were indicated as allowable and claim 2 was withdrawn from consideration. The examiner considered the traversal and made the second restriction requirement final.

On 4 June 2010, applicants filed a response adding new claim 13 directed to a subset of heterocyclic rings of Group IIb, along with this petition. The petition was not promptly forwarded to the deciding official.

On 12 August 2010, the examiner mailed applicants a notice of non-compliant or non-responsive amendment, requiring that the claims be amended to recite only the elected subject matter.

On 20 May 2011, the petition was brought to the attention of the deciding official.

DISCUSSION

The application, file history and petition have been considered carefully.

On 26 August 2009, the examiner required a second restriction between alternatives of a single "Markus-type" claim. On 9 February 2011, the Office issued A Federal Register Notice entitled "Supplemental Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for treatment of Related Issues in Patent Applications." Page 7166 sets forth guidelines for the treatment of Markush-type claims:

> "Under principles of compact prosecution, the examiner should also require the applicant to elect a species or group of indistinct species for search and examination (*i.e.*, an election of species).52 If the examiner does not find the species or group of indistinct species in the prior art, then the examiner should extend the search to those additional species that fall within the scope of a permissible Markush claim. In other words, the examiner should extend the search to the species that share a single structural similarity and a common use. The improper Markush claim should be examined for patentability over the prior art with respect to the elected species or group of indistinct species, as well as the species that share a single structural similarity and a common use with the elected species or group of indistinct species (*i.e.*, the species that would fall within the scope of a proper Markush claim)."

In view of these new guidelines, the second restriction requirement is unwarranted and is hereby replaced with a provisional election of species requirement.

DECISION

Accordingly, the petition under 37 CFR 1.144 is **GRANTED**. The restriction requirement made between Groups IIa to IIe has been withdrawn and re-instated as a provisional election of species requirement. Applicant's claims will be examined in view of the election of Group IIb in accordance with the 9 February 2011 Federal Register Guidelines and in the guidance in MPEP 803.02.

The first restriction requirement made between Group I and II is maintained. All pending claims are directed to a compound or process wherein X is O.

The petition under 37 CFR 1.181 is also **GRANTED**. The Ex parte Quayle action mailed 4 February 2010 and the Notice of non-compliant or non-responsive amendment mailed 12 August 2010 have been withdrawn.

The application will be forwarded to the Examiner to consider the claims in accordance with MPEP 803.02 and the 9 February 2011 Federal Register Notice.

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

Remy Yucel
Director, Technology Center 1600

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MAILED
MAR 23 2012
OFFICE OF PETITIONS

Gordon D. Kinder
2231 Delamere Dr.
Cleveland OH 44106

In re Application of

Kliman :

Application No. 11/496,660 : DECISION ON PETITION

Filed: July 31, 2006 :

Attorney Docket No. **KLIM P 0506**

This is in response to the petition under 37 CFR 1.137(b) filed February 21, 2012.

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 non-final Office action mailed July 17, 2009. 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 October 18, 2009. A Notice of Abandonment was mailed on February 17, 2010.

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 the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) further information as to when the applicant (or the applicant's representative) first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(b) in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:
>
> (A) the date that the applicant first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.
>
> In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Petitioner did not provide not explanation for the more than two year delay in filing the instant petition. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

The request made February 21, 2012, for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of $635.00 will be refunded, in due course.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

In re Application No/ 11/496,660

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

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SEP 28 2010

OFFICE OF PETITIONS

In re Application of :
Smith, et al. : DECISION ON PETITION
Application No. 11/496,774 :
Filed: July 31, 2006 :
Atty. Dkt. No.: 200601171-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2010.

The petition is **GRANTED**.

This application became abandoned December 17, 2009 for failure to timely reply to the Notice of Allowability (Notice) mailed September 16, 2009. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed January 4, 2010. A petition under 37 CFR 1.181 was filed January 26, 2010. Petitioner argued that the drawing requirement set forth in the Notice was set forth in error. The petition was dismissed May 25, 2010 on the ground that petitioner failed to timely contest the drawing requirement set forth in the Notice.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, in this instance, petitioner's submission that new drawings are not required; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

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

This application is being forwarded to Group Art Unit 2862 mailing of a Supplemental Notice of Allowability and/or further processing prior to forwarding to the Office of Data Management.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/03/12

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 11496882 Patent No.: 8043232

CofC mailroom date: 01/20/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/03/12

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 11496882 Patent No.: 8043232

CofC mailroom date: 01/20/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You may 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: The submitted changes are all either typographical errors committed by the PTO when drafting the patent or minor grammatical errors committed by the applicant. The changed should be applied and corrected in the patent.

/Max Hindenburg/ 3/22/12 — 3736

SPE — **Art Unit**

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	11496909
Filing Date	01-Aug-2006
First Named Inventor	Jon McElvain
Art Unit	2625
Examiner Name	DUNG TRAN
Attorney Docket Number	20051585-US-NP
Title	SYSTEM AND METHOD FOR CHARACTERIZING COLOR SEPARATION MISREGISTRATION

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	/Tuesday Kaasch/
Name	Tuesday Kaasch
Registration Number	63268

UNITED STATES 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 30, 2012

In re Application of :

Jon McElvain

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11496909

Filed : 01-Aug-2006

Attorney Docket No : 20051585-US-NP

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed March 30, 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 2625 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : **7676499**
Ser. No. :**11/496940**
Inventor(s) : **DORSETT, DAVID R. JR.**
Issued : **03/09/2010**
Title : **MANAGEMENT OF DATA FROM COMBINATORIAL MATERIALS EXPERIMENTS**
Docket No. : **084600-0028**

Re: Request for Certificate of Correction

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

In regards to the alleged error(s) on the Cover Page, Item 56, the requested change isn't valid. Reference No. 8,658,429 isn't listed on the Cover Page.

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

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

18191 VON KARMAN AVE.
SUITE 500
IRVINE, CA 92612-7108

OL

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P.O. Box 1450
Alexandria, VA 22313-1450
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PETER A. HAAS, ESQUIRE
1929 SW 13TH AVENUE
PORTLAND OR 97201

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Pierson, et al. :
Application No. 11/497,084 : DECISION
Filed/Deposited: 31 July, 2006 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 21 June, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 6 May, 2009, with reply due under a non-extendable deadline on or before 6 August, 2009.

The application went abandoned by operation of law after midnight 6 August, 2009.

The Office mailed a Notice of Abandonment on 1 September, 2009.

On 16 September, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, but failed to ensure that all fees due (petition, publication and issue) were fully paid—the credit card authorization was incomplete as to funds due), and made the statement of unintentional delay. The petition was dismissed on 10 December, 2009.

On 15 December, 2009, Petitioner filed, *inter alia*, a second petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, and again failing to pay all of the fees due—the authorization was incomplete, and made the statement of unintentional delay. The petition was dismissed on 15 June, 2010.

On 21 June, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of fees due, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

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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.

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 Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 12 2010

OFFICE OF PETITIONS

Mauriel Kapouytian & Treffert LLP
151 1st Avenue
#23
New York NY 10003

In re Application of	:	
MENDELEVITCH, Ofer et al.	:	
Application No. 11/497,085	:	DECISION ON PETITION
Filed: July 31, 2006	:	TO WITHDRAW
Attorney Docket No. **1220**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 22, 2010.

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.

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

The request cannot be approved because no change of address was provided.

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

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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MAURIEL, KAPOUYTIAN & TREFFERT, LLP
151 1ST AVENUE, #23
NEW YORK, NY 10003

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of :
Ofer Mendelevitch, et al. :
Application No. 11/497,110 : DECISION ON PETITION
Filed: July 31, 2006 : TO WITHDRAW
Attorney Docket No. 10033-2005100 : 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 September 22, 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.

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

Accordingly, since the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office, the request cannot be granted at the present time.

All future communications from the Office will continue to be directed to the 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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STANLEY M. BALDWIN
19222 HILLWARD COURT
RIVERSIDE CA 92508

MAILED

JAN 05 2011

OFFICE OF PETITIONS

In re Application of
Stanley Baldwin
Application No. 11/497,111
Filed: July 31, 2006
Attorney Docket No. 724.100

ON PETITION

This is a decision on the petition filed December 10, 2010, to revive the above identified application under 37 CFR 1.137(a).

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

A non-Final Office Action was mailed August 19, 2009 and set a three (3) month shortened statutory period for reply. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the application became abandoned on November 20, 2009. Accordingly, a Notice of Abandonment was mailed March 5, 2010.

The instant petition is filed to revive the application, unavoidably delayed under 37 CFR 1.137(a).

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

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

(2) the petition fee as set forth in § 1.17(l);

(3) a showing to the satisfaction of the 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 this paragraph was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required

pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3) above.

With regard to item (1), petitioner has not provided the required reply. Petitioner must provide an amendment in response to the non-Final Office Action mailed August 19, 2009. The application will not be revived unless and until a proper response to the non-Final office Action is provided.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the Patent Agent's failure to take action in this matter, failure to

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

respond to his inquiries regarding the status of this patent application and finally his failure to advise the applicant that this patent application had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the Agent or the Attorney of Record in prosecution of the matter.[3] Since petitioners can't say for certain whether the Agent or the Attorney of Record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the Agent or the Attorney of Record. The series of events outlined in the petition suggest that the Agent or the Attorney of Record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[4] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[5]

As petitioner has not provided a showing of evidence 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)[6],

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[3]See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[4]Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[5]Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[6]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);

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).

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 petition under 37 CFR 1.137 (b) also carries with it a petition fee of $810.00 for a small entity and $1620.00 for a large entity and the $270.00 petition fee paid December 17, 2010 cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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APR 08 2011

OFFICE OF PETITIONS

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

In re Application of	:	
ZUCKERMAN	:	
Application No. 11/497,238	:	DECISION ON PETITION
Filed: August 2, 2006	:	TO WITHDRAW
Attorney Docket No. P08928US00/RFH	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 17, 2011.

The request is **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 Jeffrey A. Haeberlin on behalf of the attorneys of record associated with Customer No. 00881.

The attorneys of record associated with Customer No. 00881 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: STEPHEN D. ZUCKERMAN
10390 WILSHIRE BOULEVARD
LOS ANGELES, CA 90048

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
11/497,238	08/02/2006	Stephen D. Zuckerman	P08928US00/RFH

CONFIRMATION NO. 6598

881
STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

POWER OF ATTORNEY NOTICE

OC000000046926142

Date Mailed: 04/04/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/17/2011.

- 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

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

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

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Application of :
Shimada et al. : ON PETITION
Application No. 11/497,288 :
Filed: August 2, 2006 :
Attorney Docket No. 1075.1411 :

This is in response to the "PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT" filed December 22, 2011.

The above-identified application became abandoned effective July 14, 2011 for failure to file a response to the non-final Office action mailed April 13, 2011.

Petitioner requests withdrawal of the holding of abandonment on the basis that the Office action mailed April 13, 2011 was not received at the correspondence address of record. The practitioner stated that a search of the records, including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. The petition includes a copy of the records used, including the master docket, showing where the non-received Office action would have been entered had it been received.

Petitioner has adequately supported his claim of non-receipt.

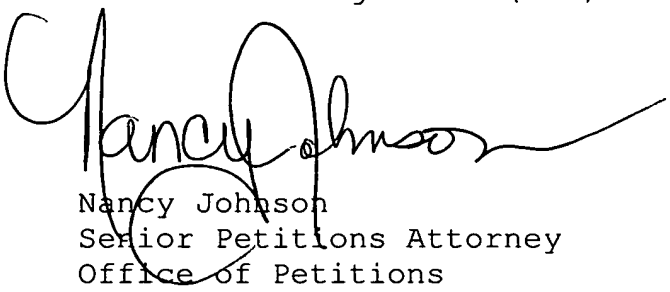
In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2483 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the notice of non-final Office action mailed April 13, 2011 and for restarting of the period for reply.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

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

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

Attorney Docket Number: OUJI3003/REF	Patent Number: 7662434
Filing Date (or 371(b) or (f) Date): 2006-08-02	Issue Date: 2010-02-16
First Named Inventor: Jinn-Luh Ou	
Title: PROCESS FOR PREPARING A METAL STYRENE POLYMER COMPOSITE HAVING NANO METALLIC PARTICLES DEPOSITED THEREON	

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 2010-08-12
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: 08/19/2010

Applicant	: Jinn-Luh Ou	: DECISION ON REQUEST FOR
Patent Number	: 7662434	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/497,308	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **666** 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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ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of :
Cheryl L. Panasik et al. :
Application No. 11/497,384 : DECISION ON PETITION
Filed: August 2, 2006 :
Attorney Docket No. OMGMW/145/US :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 9, 2009, which set a shortened statutory period for reply of three (3) months. A letter restarting the period for response time was mailed on November 5, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 6, 2010. A Notice of Abandonment was mailed on June 8, 2010.

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

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

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

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received July 16, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : October 26, 2010
Serial no. : 11/497431
Patent No. :7,787542 B2
Patent Issued : August 31, 2010
Inventor(s) : Shijun Sun, et al.
Title :ADAPTIVE FILTERING BASED UPON BOUNDARY STRENGTH

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..

Respecting the alleged error(s) noted in your request, newly submitted document was never considered during prosecution.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

Birch, Stewart ,Kolasch & Birch, LLP
8110 Gatehouse Rd., Ste. 100 East
P.O. Box 747
Falls Church, VA 22040-0747

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 26, 2010

TO SPE OF : ART UNIT 2621
SUBJECT : Request for Certificate of Correction for Appl. No/11/497431 -7787542

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

Comments: Newly submitted document was never considered during prosecution.

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Alexandria, VA 22313-1450
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Whyte Hirschboeck Dudek, S.C.
Intellectual Property Department
33 East Main Street, Suite 300
Madison, WI 53703-4655

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,884,193 :
Issue Date: February 8,2011 :
Application No. 11/497,472 : NOTICE
Filed: August 1, 2006 :
Patentee(s): Mitinori Saitou, et. al. :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on November 23, 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**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
4TH FLOOR
WASHINGTON, DC 20005

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of
Yukinori Nagao, et al.
Application No. 11/497,517
Filed: August 2, 2006
Attorney Docket No.: 060591

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 21, 2008. A Notice of Abandonment was mailed on October 28, 2008. On April 20, 2010, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed June 10, 2010. In response, on June 23, 2010, the present petition was filed.

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

The application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received June 23, 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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VAN PELT, YI & JAMES LLP
AND APPLE COMPUTER, INC.
10050 N. FOOTHILL BOULEVARD
SUITE 200
CUPERTINO CA 95014

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of :
Popp et al. : ON APPLICATION
Application No. 11/497,549 : FOR
Filed: July 31, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. P2125USC3 :
Title: METHOD AND APPARATUS FOR :
GENERATING OBJECT-ORIENTED :
WORLD WIDE WEB PAGES :
:

This is in response to the "COMMUNICATION," filed April 2, 2010, requesting reconsideration of patent term adjustment in light of Wyeth v. Kappos.

The request is DISMISSED.

Request for reconsideration of the patent term adjustment in light of Wyeth v. Kappos is by way of 37 CFR 1.705(d). Such a request must be timely filed and must include the fee required pursuant to 37 CFR 1.18(e).

Filing a request for reconsideration of patent term adjustment at the time of the mailing of the notice of allowance based on Wyeth v. Kappos; that is, based on the Office not properly calculating the Office delay in taking more than 3 years to issue the patent is premature. Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant may wait until the time of the issuance of the patent and then file a request for

reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Tung & Associates
Suite 120
838 W. Long Lake Road
Bloomfield Hills MI 48302

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of :
Pao-Chuan Lin et al. :
Application No. 11/497,587 : NOTICE
Filed: August 2, 2006 :
Attorney Docket No. **92,000-014 (RH-1001US)** :

This is a notice regarding your request filed July 1, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Jay Chun :
Application No. 11/497,708 : DECISION ON PETITION
Filed: August 1, 2006 TO WITHDRAW FROM RECORD
Attorney Docket No. 64756.00010 :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2011.

The request is **APPROVED**.

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

The request was signed by Fariba Sirjani on behalf of himself. Accordingly, Fariba Sirjani associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Fariba Sirjani
925 Delaware Avenue, Apt 9C
Buffalo, NY 14209

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COMMISSIONER FOR PATENTS
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MAR 14 2011

OFFICE OF PETITIONS

Paper No.

COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605-1601

In re Application of :
Prossnitz et al. :
Application No. 11/497,751 : DECISION ON PETITION
Patent No. 7,875,721 : PURSUANT TO
Filed: August 2, 2006 : 37 C.F.R. § 1.28(c)
Issued: January 25, 2011
Attorney Docket No.: N12-071US
Title: COMPOUNDS FOR BINDING TO :
ERALPHA/BETA AND GPR30, METHODS :
OF TREATING DISEASE STATES AND :
CONDITIONS MEDIATED THROUGH :
THESE RECEPTORS AND :
IDENTIFICATION THEREOF :

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 27, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Petitioner has identified the particular type of 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.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

The deficiency payment of $1065 is acknowledged.

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] 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

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).

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MINNEAPOLIS MN 55440-1022

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SEP 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,970,934	: DECISION ON
Amit J. Patel	: REQUEST FOR RECONSIDERATION
Application No. 11/497,798	: of PATENT TERM ADJUSTMENT
Issue Date: June 28, 2011	: and
Filed: July 31, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 16113-0154001	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed August 29, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from seven hundred eighty-six (786) days to eight hundred seventeen (817) days.

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

On June 28, 2011, the instant application matured into U.S. Patent No. 7,970,934 with a patent term adjustment of seven hundred eighty-six (786) days. The Office determined a patent term adjustment of 786 days based upon 624 days of "A" delay and 257 days of "B" delay, reduced by 91 days of Applicant delay and 4 days of overlap between "A" and "B" delay.

Patentees argue that even though they filed an RCE on April 15, 2010, they should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on February 23, 2011 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 126 additional days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

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

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

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

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

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

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 257 days based on the application having been filed under 35 U.S.C. 111(a) on July 31, 2006 and a request for continued examination under 132(b) having been filed on April 15, 2010. In other words, the

126 day period beginning on the date of mailing of the Notice of Allowance on February 23, 2011 to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, (580 F. Supp. 2d 138), because the clock for calculating the 20-year patent term begins to run on the filing date,

and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. *See* 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the 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 April 15, 2010, and the patent issued by virtue of that request on June 28, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 15, 2010 and ending on June 28, 2011 is not included in calculating Office delay.

In addition, Patentee also points out that he should have been assessed additional Applicant delay for two separate instances under 37 CFR 1.704(c)(8). In the first instance, Applicant filed substitute drawings on September 30, 2009, subsequent to a reply filed on September 11, 2009. Accordingly, pursuant to 37 CFR 1.704(c)(8), nineteen (19) days of Applicant delay should have been assessed. In the second instance, Applicant filed a supplemental IDS on February 22, 2011, subsequent to a reply filed on December 8, 2010. As such, seventy-six (76) days of Applicant delay should have been assessed for this filing under 37 CFR 1.704(c)(8).

In view thereof, the correct number of days of patent term adjustment is **six hundred ninety-one (691)** days (624 days of "A" delay plus 257 days of "B" delay, reduced by 186 days of Applicant delay and 4 days of overlap).

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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 **six hundred ninety-one (691) days.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,970,934 B2

DATED : **June 28, 2011**

INVENTOR(S) : Patel

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 786 days.

Delete the phrase "by 786 days" and insert – by 691 days--

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MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of :
FUJII et al. :
Application No. 11/497,870 : DECISION ON APPLICATION
Filed: July 31, 2006 : FOR
Docket No. 10284-0487001/ : PATENT TERM ADJUSTMENT
MGH 2882 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed December 16, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from nine hundred twelve (912) days to one thousand six (1006) days.

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

The Office has updated the PALM and PAIR screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one thousand six (1006) days. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the Notice of Allowance are correct.

In view thereof, the corrected determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one thousand six (1006) days.

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

11/497,870	METHODS AND COMPOSITIONS FOR REDUCING SKIN DAMAGE	10284-0487001 / MGH 2882	12-29-2011::14:38:10

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/497,870

Filing or 371(c) Date:	07-31-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	966
A Delays:	966	PTO Manual Adjustments:	94
B Delays:	0	Applicant Delays:	54
C Delays:	0	Total PTA Adjustments:	1006

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
100	12-29-2011	Adjustment of PTA Calculation by PTO		31	0
99	12-29-2011	Adjustment of PTA Calculation by PTO	1067		0
98	12-29-2011	Adjustment of PTA Calculation by PTO		942	0
87	09-16-2011	Mail Notice of Allowance			0
86	09-13-2011	Office Action Review			0
85	09-13-2011	Office Action Review			0
84	09-13-2011	Office Action Review			0
83	09-13-2011	Issue Revision Completed			0
82	09-13-2011	Document Verification			0
81	09-13-2011	Notice of Allowance Data Verification Completed			0
80	08-26-2011	Interview Summary- Applicant Initiated			0
79	09-12-2011	Examiner's Amendment Communication			0
78	09-12-2011	Allowability Notice			0
74	05-31-2011	Date Forwarded to Examiner			0
73	05-24-2011	Response after Non-Final Action			0
72	03-29-2011	Case Docketed to Examiner in GAU			0
71	02-25-2011	Electronic Review			0
70	02-25-2011	Email Notification			0

69	02-25-2011	Mail Non-Final Rejection	24		59
68	02-23-2011	Non-Final Rejection			0
67	10-01-2010	Letter Requesting Interview with Examiner			0
66	12-22-2010	Date Forwarded to Examiner			0
65	11-24-2010	Supplemental Response		54	59
63	11-26-2010	Email Notification			0
62	11-26-2010	Mail Examiner Interview Summary (PTOL - 413)			0
61	11-09-2010	Examiner Interview Summary Record (PTOL - 413)			0
60	10-05-2010	Date Forwarded to Examiner			0
59	10-01-2010	Response after Non-Final Action			0
54	09-01-2010	Mail First Action Interview Office Action			0
53	08-30-2010	Pilot-First Action Interview Office Action (FAI Step 2)			0
52	08-05-2010	Email Notification			0
51	08-05-2010	Mail Examiner Interview Summary (PTOL - 413)			0
50	07-29-2010	Examiner Interview Summary Record (PTOL - 413)			0
49	06-16-2010	Date Forwarded to Examiner			0
48	06-01-2010	Response to PICO-Request			0
47	04-29-2010	Electronic Review			0
46	04-29-2010	Email Notification			0
45	04-29-2010	Mail Pre-Interview Communication	942		0.5
44	04-26-2010	Pre-Interview Communication (FAI Step 1)			0
43	04-15-2010	Examiner Interview Summary Record (PTOL - 413)			0
37	06-22-2007	Information Disclosure Statement considered			0
36	03-04-2010	Information Disclosure Statement considered			0
35	03-04-2010	Information Disclosure Statement (IDS) Filed			0

34	03-04-2010	Preliminary Amendment	0
33	03-08-2010	Case Docketed to Examiner in GAU	0
32	03-06-2010	Case Docketed to Examiner in GAU	0
31	03-04-2010	Information Disclosure Statement (IDS) Filed	0
30	01-12-2010	Case Docketed to Examiner in GAU	0
28	06-22-2007	Reference capture on IDS	0
27	06-22-2007	Information Disclosure Statement (IDS) Filed	0
26	06-22-2007	Information Disclosure Statement (IDS) Filed	0
25	05-10-2007	PG-Pub Issue Notification	0
24	03-15-2007	Case Docketed to Examiner in GAU	0
23	01-05-2007	Preliminary Amendment	0
22	02-02-2007	IFW TSS Processing by Tech Center Complete	0
21	01-26-2007	Application Return from OIPE	0
20	01-29-2007	Application Is Now Complete	0
19	01-26-2007	Pre-Exam Office Action Withdrawn	0
18	01-26-2007	Application Return TO OIPE	0
17	01-26-2007	Application Dispatched from OIPE	0
16	01-26-2007	Application Is Now Complete	0
15	01-05-2007	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
13	01-19-2007	Pre-Exam Office Action Withdrawn	0
12	01-19-2007	CRF Is Good Technically / Entered into Database	0
11	01-19-2007	SEQUENCE ERRORS	0
10	01-05-2007	Additional Application Filing Fees	0
8	01-05-2007	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	08-18-	Cleared by L&R (LARS)	0

	2006		
4	08-10-2006	Referred to Level 2 (LARS) by OIPE CSR	0
3	08-10-2006	CASE CLASSIFIED BY OIPE	0
2	08-09-2006	IFW Scan & PACR Auto Security Review	0
1	07-31-2006	Initial Exam Team nn	0
0.5	07-31-2006	Filing date	0

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DECISION ON PETITION

In re Application of:
Morrison et al..
Serial No. 11/497,888
Filed: August 2, 2006
For: VIRUS-LIKE PARTICLES AS VACCINES FOR PARAMYXOVIRUS

November 18, 2010

This is a decision in response to Applicants' petition filed 12/27/07 under 37 C.F.R 1.84(a)(2) to accept color drawing(s)/photograph(s) in the instant application. The papers filed with the petition include:

(a) Three copies of color formal drawing sheet;
(b) A fee set forth in 37 C.F.R 1.17(h); and
(c) An amendment to the specification.

In light of the fact that the various papers filed by Applicants are in compliance of 37 C.F.R 1.84(a)(2), the petition is hereby granted.

PETITION GRANTED.

/Zachariah Lucas/
Supervisory Patent Examiner
Art Unit 1648
Technology Center 1600

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NEW YORK NY 10176

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OFFICE OF PETITIONS

In re Application of :
Shigeru Namatame et al. :
Application No. 11/497,901 : DECISION ON PETITION
Filed: August 2, 2006 :
Attorney Docket No. 5354-11 :

This is a decision on the Renewed Petition to Expunge, filed June 4 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that nine references be expunged from the record. Petitioner states that these references were submitted unintentionally and were meant to be cited in a co-pending application.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

It is noted that the examiner of record has indicated that the references requested to be expunged are not considered material to this application. However, the above noted deficiencies must be met by petitioner for grant of this petition.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of
Steven B. Leeb

Application No. 11497951

Filed: August 2,2006

Attorney Docket No. SL614

:
:
:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 21-SEP-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

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

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ELMER C. LUPTON
28 CONSTITUTION ROAD
BOSTON MA 02129

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DEC 21 2010

OFFICE OF PETITIONS

In re Application of :
Steven B. Leeb et al. :
Application No. 11/497,951 : DECISION ON PETITION
Filed: August 2, 2006 :
Attorney Docket No. SL614 :

This is a decision on the petition, filed June 14, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Restriction Requirement Office action mailed September 11, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on May 14, 2010.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Office action dated September 11, 2009, was not received due to the reason that the Power of Attorney filed on August 18, 2009, was not entered. However, the Power of Attorney filed on August 18, 2009, is deemed improper because: (1) petitioner checked both boxes as the inventor and assignee; (2) if petitioner is identifying himself as the inventor, then all inventors' must sign the Power of Attorney; (3) if petitioner is signing on behalf of the assignee a Certificate is required by 37 CFR 3.73(b). Therefore, since none of these requirements were met the Power of Attorney was not entered. Petitioner did not submit a proper Power of Attorney until July 6, 2010. Accordingly, as there is no indication of irregularity in the mailing of the Office action, it was properly mailed to the address of record. For the reason set forth, the requested relief of withdrawing the holding of abandonment cannot be granted.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity;**

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810 petition fee.

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

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

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

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

Telephone inquiries related to this decision may be directed to the JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement

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ELMER C. LUPTON
28 CONSTITUTION ROAD
BOSTON MA 02129

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Steven B. Leeb et al. :
Application No. 11/497,951 : DECISION ON PETITION
Filed: August 2, 2006 :
Attorney Docket No. SL614 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 11, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 12, 2009.

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

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

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

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JUL 22 2011

OFFICE OF PETITIONS

ELMER C. LUPTON
3 TREMONT ST., SUITE 203
CHARLESTONW MA 02129

In re Application of :
Steven B. Leeb et al :
Application No. 11/497,951 : DECISION ON PETITION
Filed: August 2, 2006 : UNDER 37 CFR 1.313(c)
Attorney Docket No. SL614 :

This is a decision on the petition under 37 CFR 1.313(c), filed July 19, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

As to the matter under 37 CFR 1.78(a)(3):

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the prior-filed application (10/617,082 and 09/770,806) 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 application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Further, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated,

following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

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.

Applicant is reminded of 37 CFR 1.4(c), where papers with distinct subject matters should be filed separate. Therefore, the petitions under 37 CFR 1.313(c)2) and 37 CFR 1.78(a)(3) should be filed separate.

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

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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ELMER C. LUPTON
3 TREMONT ST., SUITE 203
CHARLESTOWN MA 02129

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of :
Steven B. Leeb et al : DECISION ON PETITIONS
Application No. 11/497,951 : UNDER 37 CFR 1.313(c)(2) AND
Filed: August 2, 2006 : 37 CFR 1.78(a)(3)
Attorney Docket No. SL614 :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed July 27, 2011, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3).

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

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

As to the petition under 37 CFR 1.78(a)(3):

The petition under 37 CFR 1.78(a)(3) 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 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.*

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

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications (10/617,082 and 09/770,806) 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).

Further, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated,

following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

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.

Applicant is reminded of 37 CFR 1.4(c), where papers with distinct subject matters should be filed separate. Therefore, the petitions under 37 CFR 1.313(c)(2) and 37 CFR 1.78(a)(3) should have been filed separate.

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

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401 Dulany Street
Alexandria, VA 22314

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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ELMER C. LUPTON
3 TREMONT ST., SUITE 203
CHARLESTONW MA 02129

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SEP 08 2011

OFFICE OF PETITIONS

In re Application of :
Steven B. Leeb et al :
Application No. 11/497,951 : DECISION DISMISSING PETITIONS
Filed: August 2, 2006 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. SL614 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 16, 2011, 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.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The relationship of Application No. 09/292,126 is not provided in the amendment submitted with the above petition on August 16, 2011. Also, on page 6(six) the statement "It claims priority to U.S. Provisional Patent Applications" is not clear to the Office which application petitioner is referring to.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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ELMER C. LUPTON
3 TREMONT ST., SUITE 203
CHARLESTONW MA 02129

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Application of :
Steven B. Leeb et al :
Application No. 11/497,951 : DECISION DISMISSING PETITION
Filed: August 2, 2006 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. SL614 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 23, 2011, 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 and Application Data Sheet (ADS).

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

Applicant was notified in the Decision mailed July 29, 2011 that:

The reference to add the prior-filed applications (10/617,082 and 09/770,806) 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).

The amendment filed with the petition on September 23, 2011, still incorporates by reference Application No. 09/770,806.

The ADS submitted with the above petition is **not** consistent with the amendment to the specification. Applicant is encouraged to note that a Supplemental ADS must be identified as a "Supplemental ADS".

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ELMER C. LUPTON
3 TREMONT ST., SUITE 203
CHARLESTOWN MA 02129

In re Application of
Steven B. Leeb et al
Application No. 11/497,951
Filed: August 2, 2006
Attorney Docket No. SL614

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition filed October 19, 2011, which is being treated as a petition 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 the prior-filed applications set forth in the amendment filed with the petition.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 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.

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 the above requirements having been satisfied, the late claim for benefit of priority 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. 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 2613 for consideration by the examiner of the claim under 35 U.S.C. §§120 and 119(e) of the prior-filed nonprovisional and provisional applications.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
Hidefumi Okabe :
Application No. 11/498,062 : ON PETITION
Filed: August 3, 2006 :
Attorney Docket No. OKAB3002

This is a decision on the petition, filed November 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 August 27, 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 3663 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-4-12

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11498065 Patent No.: 8019659

CofC mailroom date: 3-30-12

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 – 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: See Attachment for required correction.

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3625
Art Unit

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. : 8,019,659

APPLICATION NO.: 11/498,065

ISSUE DATE : 09/13/2011

INVENTOR(S) : Timothy A. Musgrove et al.

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

On the front of the patent, the "Related U.S. Application Data", item (62) is replaced with the following:
-- Divisional of application No. 10/460,681, ~~File~~ filed on Jun. 13, 2003, now abandoned, which claims priority to provisional application no. 60/467,151, filed on May 2, 2003, now expired.--

In the specification, col. 1, lines 5-8 are replaced with the following:
-- This application is a Divisional of U.S. patent application Ser. No. 10/460,681, filed on Jun. 13, 2003, which claims priority to provisional application no. 60/467,151, filed on May 2, 2003, the contents of which are incorporated herein by reference. --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Gerard M. Donovan, Reed Smith LLP
1301 K Street, Suite 1100-East Tower
Washington, DC 20005-4417

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.

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

MAILED
OCT 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Nobuki Nakata, et al.	:	
Application No. 11/498,202	:	DECISION GRANTING PETITION
Filed: August 3, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1341.1635	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 21, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2613 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADE & COMPANY INC.
1795 HENDERSON HIGHWAY
PO BOX 28006
WINNIPEG MB R2G 4E9 CA CANADA

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Application of :
Raymond C. Senez, Jr. et al. :
Application No. 11/498,248 : DECISION ON PETITION
Filed: August 03, 2006 :
Attorney Docket No. **85394-102 RWD** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 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 for failure to timely submit corrected formal drawings on or before January 05, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed October 05, 2010. Accordingly, the date of abandonment of this application is January 06, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3) as the s-signature on the petition submitted therewith is improper as neither the petitioner's name nor his signature is in accordance with 37 CFR1.4(d)(2).

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Ade & Company, Inc.
1795 Henderson Highway
P.O. Box 28006
Winnipeg MB R2G 4E9 CA **CANADA**

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Raymond C. Senez, Jr. :
Application No. 11/498,248 : DECISION ON PETITION
Filed: August 3, 2006 :
Attorney Docket No. 85394-102 RWD :

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

In response to the decision mailed July 28, 2011, petitioner submits the present renewed petition with the proper s-signature.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of ten (10) sheets of replacement drawings containing Figures 1-10; (2) the petition fee of $810; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

Since the correspondence address of record differs from the address given in the present petition, a courtesy copy of this decision is being mailed to the address given in the petition. Thereafter, all future communications from the Office will be directed solely to the address of record unless otherwise instructed.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: ADE & COMPANY INC.
2157 HENDERSON HIGHWAY
WINNIPEG, **CANADA** R2G1P-9

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Slater & Matsil, L.L.P.
17950 Preston Rd
Suite 1000
Dallass TX 75252

MAILED
APR 16 2012
OFFICE OF PETITIONS

In re Application of :
Evans et al. :
Application No. 11/498285 : ON PETITION
Filing or 371(c) Date: 08/02/2006 :
Attorney Docket Number: LMC-MC-00803 :

This is a decision on the petition to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 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 October 15, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is January 16, 2011.

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

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

This application is being referred to Technology Center AU 3726 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of :
Vandaele : DECISION ON PETITION
Application No. 11/498,336 :
Filed: August 1, 2006 :
Atty. Dkt. No.: F-906 (31223.00136) :

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

This application became abandoned September 28, 2011 for failure to timely to take in response to the decision mailed July 27, 2011 by the Board of Patent Appeals and Interferences. Notice of Abandonment was mailed September 30, 2011.

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

As to item (1), the instant petition is not accompanied by the required reply. While petitioner asserts that the required reply is a continuation application, petitioner has not provided the application number and filing date of this application.

Any request for reconsideration of this decision must be accompanied by the required reply.

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 37CFR 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:

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 571-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 30 2012

OFFICE OF PETITIONS

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

In re Application of :
Vandaele : DECISION ON PETITION
Application No. 11/498,336 :
Filed: August 1, 2006 :
Atty. Dkt. No.: F-906 (31223.00136) :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 21, 2011, to revive the above-identified application.

This application became abandoned September 28, 2011 for failure to timely to take in response to the decision mailed July 27, 2011 by the Board of Patent Appeals and Interferences. Notice of Abandonment was mailed September 30, 2011. A petition under 37 CFR 1.137(b) was filed September 30, 2011 and dismissed October 24, 2011.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a continuing application under 37 CFR 1.53(b); (2) the required petition fee; 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. 13/331,855 filed December 20, 2011.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 571-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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MAILED
AUG 02 2011
OFFICE OF PETITIONS

Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON MA 02110-1618

In re Patent No. 7,574,257 :
Issued: August 11, 2009 :
Application No.: 11/498,446 : NOTICE
Filed: August 2, 2006 :
Attorney Docket No: **3561/101** :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
Li et al. :
Application Number: 11/498469 : ON APPLICATION FOR
Filed: 08/03/2006 : PATENT TERM ADJUSTMENT
Atty Docket No. :
BIN-112US :

This is in response to the "PETITION UNDER 37 C.F.R. § 1.705(d) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH," filed on March 25, 2010, which is treated as a request for reconsideration under 37 CFR 1.705(b). Applicants request reconsideration of the patent term adjustment to include an additional period of adjustment of 217 days for failure of the Office to issue the patent within 3 years of the filing date.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

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

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

---

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of :
Wycoff et al. :
Application No. 11/498,488 : DECISION ON PETITION
Filed: August 2, 2006 TO WITHDRAW FROM RECORD
Attorney Docket No. 415142000421 :
:

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 24, 2011.

The request is **APPROVED**.

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

The request was signed by Michael R. Ward, on behalf of all attorneys/agents of record who are associated with Customer Number 20872.

All attorneys/agents associated with the Customer Number 20872 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Planet Biotechnology, Inc.
25571 Clawiter Road
Hayward, CA 94545

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Buelow, et al. :
Application No. 11/498,571 : ON PETITION
Filed: August 2, 2006 :
Attorney Docket No. THP-0014 A :

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 May 19, 2010 for failure to timely submit a proper reply to the final Office action mailed February 18, 2010. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time pursuant to 37 CFR 1.136(a) was submitted. 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 1633 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of
Lawrence Chin Shiun TEO et al.
Application No. 11/498,587
Filed: August 03, 2006
Attorney Docket No. **56697-332469**

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 June 25, 2010.

April 05, 2010.

The request is **NOT APPROVED**.

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

The statement under 37 CFR 3.73(b) submitted June 25, 2010 is improper. The reel/frame number provided does not correspond with the reel/frame number that the Office has on record. Therefore, the Office cannot change the correspondence address to the address on the Request for Withdrawal.

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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CALYPTIX SECURITY CORPORATION**
8701 MALLARD CREEK ROAD
CHARLOTTE, NC 28262

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of :
TEO, Lawrence Chin Shiun :
Application No. 11/498,587 : DECISION ON PETITION
Filed: August 03, 2006 : TO WITHDRAW
Attorney Docket No. **56697-332469** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 John C. Alemanni on behalf of all attorneys of record who are associated with customer No. 23342. All attorneys/agents associated with have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely reply to Office action mailed January 06, 2010.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CALYPTIX SECURITY CORPORATION**
8701 MALLARD CREEK ROAD
CHARLOTTE, NC 28262

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UNISYS CORPORATION
Office of the General Counsel
801 Lakeview Drive, Suite 100
MailStop: 2NW
BLUE BELL PA 19422

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of :
Kain et al. :
Application No. 11/498,624 : DECISION ON PETITION
Filed: August 3, 2006 :
Attorney Dkt. No.: TN460 :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on February 10, 2011.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on July 19, 2010. The Notice set an extendable three-month reply period of October 19, 2010. No timely extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on October 20, 2010. This decision precedes the mailing of a Notice of Abandonment.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on February 8. 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 19-3790.

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

This application is being referred to Technology Center AU 2438 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/09

TO SPE OF : ART UNIT 1793 Silverman Stanley

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/498837 Patent No.: 7591872

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE 1733 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE of Data Management

GERALD M. BLUHM
SENIOR PATENT AND TRADEMARK COUNSEL
TYCO FIRE PROTECTION
TYCO LAW DEPARTMENT 50 TECHNOLOGY DRIVE
WESTMINSTER MA 01441

JUN 08 2011

In re Application of
SHARMA, RAMAN KUMAR :
Application No. 11/498,930 : **DECISION ON PETITION**
Filed: August 3, 2006 :
Attorney Docket No.: F-TP-00101 (336-2034) :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on May 26, 2011.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed January 20, 2011. The Notice of Abandonment, mailed on May 5, 2011 indicates, "The submitted fee of $0 is insufficient. A balance of $1810.00 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on March 22, 2011 authorizing that the Issue Fee be charged to Deposit Account No. 19-1346. On March 22, 2011 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

GERALD M. BLUHM
SENIOR PATENT AND TRADEMARK COUNSEL
TYCO FIRE PROTECTION
TYCO LAW DEPARTMENT 50 TECHNOLOGY DRIVE
WESTMINSTER MA 01441

JUN 21 2011

In re Application of
SHARMA, RAMAN KUMAR :
Application No. 11/498,930 : **DECISION ON PETITION**
Filed: August 3, 2006 :
Attorney Docket No.:F-TP-00101 (336-2034):

This is a decision on the Request for Reconsideration of Dismissed Petition to Withdraw Improper Notice of Abandonment, received in the United States Patent and Trademark Office (USPTO) filed on May 26, 2011 for the above-identified Application.

The Petition of Dismissal mailed June 8, 2011 was incorrect and hereby **VACATED.**

The Petition is **Granted.**

We investigated our financial records and found that the account was insufficient due to an office error. The check was processed on 3/2/11 and was mistakenly credited to the wrong deposit account.

However, as the Request for reconsideration points out, all three items under 37 CFR 1.8(b) has been complied with.

- informed the office of the previous mailing promptly
- supplied an additional copy of the previous mailing including the certificate of mailing.
- included a statement that the issue fee was timely transmitted.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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

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

Mail Date: 09/14/2010

Applicant	: Steven R. Zofchak	: DECISION ON REQUEST FOR
Patent Number	: 7658408	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/498,954	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor MI 48104

MAILED

MAR 12 2012

OFFICE OF PETITIONS

In re Application of :
Shu-Lan Ku :
Application No. 11/498,960 : NOTICE
Filed: August 4, 2006 :
Attorney Docket No. **14023-7 (15063-000006/US)** :

This is a notice regarding your request filed January 17, 2012, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : March 4, 2011

Patent No. :7706829
Ser. No. :11499046
Inventor(s) : Lundby et al.
Issued :April 27, 2010
Title :FORWARD LINK POWER CONTROL OF MULTIPLE DATA STREAMS
:TRANSMITTED TO A MOBILE STATION USING A COMMON POWER
:CONTROL CHANNEL

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) 756-1554

Qualcomm Inc.
5775 Morehouse Drive
San Diego, CA 92121

/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

SEP 01 2010

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130

In re Application of	:	
Chua et al.	:	DECISION ON PETITION
Application No. 11/499,076	:	TO WITHDRAW
Filed: August 4, 2006	:	FROM RECORD
Attorney Docket No. 532232002400	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 3, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 25225 was revoked by the assignee of the patent application on August 6, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Henri Duong
316 1/2 E Glendon Way
Alhambra, CA 91801

MAILED

JUN 0 1 2011

OFFICE OF PETITIONS

In re Application of Henri Duong :
Application No. 11/499,092 :
Filing Date: August 4, 2006 : Decision on Petition
For: Automatic Reacting for all Sorts of Devices :

This is a decision on the petition under 37 C.F.R. § 1.181 filed May 23, 2011, which requests withdrawal of the holding of abandonment.

The petition under 37 C.F.R. § 1.181 is **dismissed**.

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

Facts

The Office mailed a final Office action on November 27, 2009.

Petitioner filed an amendment on January 11, 2010.

The Office mailed an Advisory Action on February 22, 2010.

Petitioner filed a letter on March 1, 2010, which requested the Office suspend the time period to reply to the final Office action until Petitioner's financial situation improves. Petitioner did not submit any fee with the letter.

Petitioner filed a Notice of Appeal on May 11, 2010. Petitioner did not submit any fee with the Notice of Appeal.

Petitioner filed a copy of the May 11, 2010 Notice of Appeal and a letter on May 13, 2010. The letter requested the Office "accept the late payment of fees" when the patent issues. Petitioner did not submit any fee with the May 13, 2010 papers.

The Office mailed a "Communication Re: Appeal" on May 26, 2010. The communication informed Petitioner the Notice of Appeal filed May 13, 2010, was improper because it was untimely and because it did not include the required fee for the Notice of Appeal.

Petitioner filed three pages of correspondence on June 1, 2010. The first page appears to be a copy of a Notice of Appeal filed in Application No. 11/409,918, which includes a stamped notation indicating a fee for the Notice of Appeal was filed in that case on June 11, 2008. The second page includes a copy of a letter filed in Application No. 11/175,645, which includes a stamped notation indicating a fee for a Notice of Appeal was filed in that case on July 21, 2008. The third page instructs the Office to take the $65 fee required for a one-month extension of time from "#10/669,668." Petitioner did not submit any fee on June 1, 2010.

On July 2, 2010, Petitioner filed a paper titled "Appeal Brief." Petitioner did not submit any fee with the paper.

On July 28, 2010, the Office sent Petitioner a communication indicating the Appeal Brief was improper. The communication stated the brief was improper because Petitioner had not paid the fee required for the Notice of Appeal and or the fee required for the brief.

On July 30, 2010, Petitioner filed a letter requesting the Office transfer the following fees to the instant application:

1. $255 from Application No. 11/175,645,
2. $255 from Application No. 11/409,918, and
3. $95 from Application No. 10/669,668.

Petitioner requested the fees totaling $605 be distributed as follows:

1. $270 for the Notice of Appeal,
2. $270 for the Appeal Brief, and
3. $65 for an extension of time.

On September 16, 2010, Petitioner filed a letter requesting the Office "activate patent approval of [the instant] overdue application."

The Office mailed a Notice of Abandonment on May 18, 2011.

Petitioner filed a petition to withdraw the holding of abandonment on May 23, 2011. The petition requests the Office withdraw the holding of abandonment and transfer fees from other applications to the instant application.

Discussion

The November 27, 2009 final Office action set a three-month shortened statutory period for reply.

Petitioner has not established any extensions of time were obtained. For example, Petitioner has not shown Petitioner obtained a one-month extension of time by filing the required $65 extension of time fee *on or before* Monday, March 29, 2010.

Since an extension of time was not obtained, the application is abandoned unless a proper reply was filed on or before Monday, March 1, 2010.

Petitioner filed a letter on March 1, 2010, which requested the Office suspend the period for Petitioner to reply to the final Office action until Petitioner's financial situation improves. Therefore, the Office must determine if the letter was a proper reply to the final Office action.

Petitioner has not shown the request to suspend prosecution until Petitioner's financial situation improved was a proper reply to the final Office action. 37 C.F.R. § 1.103(a) states, "The Office will not suspend action if a reply by applicant to an Office action is outstanding." The March 1, 2010 letter was filed when a reply to an Office action was outstanding. Therefore, the letter was not a proper request for suspension of prosecution.

Since the record fails to demonstrate Petitioner filed a proper reply to the November 27, 2009 final Office action on or before March 1, 2010, the petition is dismissed and the holding of abandonment will not be withdrawn.

Petitioner may wish to file a petition to revive the application under 37 C.F.R. § 1.137. If a petition under 37 C.F.R. § 1.137 is filed, Petitioner will need to file one of the following items:

1. An amendment which *prima facie* places the case in condition for allowance,
2. A Notice of Appeal and the required $270 fee,
3. A RCE and the required $405 fee, or
4. A continuing application.

If the petition is filed under 37 C.F.R. § 1.137(a), the petition must also include a petition fee of $270 and evidence establishing the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 C.F.R. § 1.137(a) was unavoidable. A blank petition under 37 C.F.R. § 1.137(a) form is enclosed for Petitioner's convenience. A PDF "fillable" version of the form can be found at http://www.uspto.gov/web/forms/sb0061.pdf.

If the petition is filed under 37 C.F.R. § 1.137(b), the petition must also include a petition fee of $810 and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A blank petition under 37 C.F.R. § 1.137(b) form is enclosed for Petitioner's convenience. A PDF "fillable" version of the form can be found at http://www.uspto.gov/web/forms/sb0064.pdf.

When submitting petitions or any other correspondence in this application or other applications in the future, Petitioner should note a party may not pay a fee by requesting the Office transfer money paid in one application to another application.

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

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/61 (Petition under 37 C.F.R. § 1.137(a) form)
Form PTO/SB/64 (Petition under 37 C.F.R. § 1.137(b) form)
Privacy Act Notice

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHUTTLEWORTH & INGERSOLL, P.L.C.
113 3rd Street SE, Suite 500
P.O. Box 2107
Cedar Rapids, IA 52406

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Adam Engel	:	
Application No. 11/499,119	:	DECISION ON PETITION
Filed: August 4, 2006	:	TO WITHDRAW
Attorney Docket No. 20997-1	:	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 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 Allan L. Harms 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 Adam Engel at the address indicated below.

There is an outstanding Office action mailed March 22, 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
Petitions Examiner
Office of Petitions

cc: **Adam Engel**
258 27th Avenue
Amana, IA 52203

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
11/499,119	08/04/2006	Adam Engel	20997-1

CONFIRMATION NO. 1774

23486
SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS, IA 52406

POWER OF ATTORNEY NOTICE

OC00000043058203

Date Mailed: 08/16/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/13/2010.

- 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

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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GERALD B ROSENBERG
NEW TECH LAW
260 SHERIDAN AVENUE
SUITE 208
PALO ALTO CA 94306-2009

MAILED
AUG 11 2010
OFFICE OF PETITIONS

In re Application of :
MCARTHUR et al. :
Application No. 11/499,126 : DECISION ON PETITION
Filed: 08/04/2006 :
Attorney Docket No. FCSN3002 :

This is a decision on the petition under 37 CFR.1.181 filed March 10, 2010, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed August 14, 2009, which set a three-month shortened statutory period for reply. Extensions of this period were available under 37 CFR 1.136(a). On February 18, 2010, the Office mailed a Notice of Abandonment.

Petitioners state that they filed a timely and proper reply to the non-final Office action accompanied by a request for an extension of time for response within the third month (and fee) on February 11, 2010. Thus, petitioners request that the Office withdraw the holding of abandonment.

The reply and the request for an extension of time, filed February 11, 2010, were located among the papers in the Image File Wrapper for the above-identified application. Accordingly, the reply is considered timely filed on February 11, 2010, with the request for an extension of time for response within the third month (and fee). See 37 CFR 1.8(a) and 1.136(a). The petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that petitioners filed a timely response to the non-final Office action on February 11, 2010.

This matter is being referred to Technology Center Art Unit 2618 for further action on the reply filed on February 11, 2010.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GERALD B ROSENBERG
NEW TECH LAW
260 SHERIDAN AVENUE
SUITE 208
PALO ALTO CA 94306-2009

MAILED
FEB 17 2012
OFFICE OF PETITIONS

In re Application of :
McArthur et al. : DECISION ON PETITION
Application No. 11/499,126 :
Filed: August 4, 2006 :
Attorney Docket No. FCSN3002 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(B) filed January 7, 2012.

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 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(b)."

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed November 8, 2010. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned effective February 9, 2011. A courtesy Notice of Abandonment was mailed on June 7, 2011.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to

revive an abandoned application or a lapsed patent. A petition filed 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 § 1.17(m);
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes a proposed reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). However, the instant petition does not satisfy requirement (1) above.

As stated in MPEP 711.03(c),

A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, 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:

(A) a Notice of Appeal and appeal fee;
(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
(C) 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 (see paragraph (d) below); or
(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

The amendment submitted does not place the application in condition for allowance. The examiner's Advisory Action is enclosed.

In view thereof, the petition must be dismissed.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/499,126	Applicant(s) MCARTHUR ET AL.
	Examiner ZHIYU LU	Art Unit 2618

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

THE REPLY FILED 03 November 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 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: 1-23.
   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: _____.

/Zhiyu Lu/
Primary Examiner, Art Unit 2618

Continuation of 3. NOTE: The amended claims 1, 11 and 18 raise new issue which would require further consideration and/or search.

(571) 272-2837

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

1/18/2011

Patent No. :7637791
Inventor(s) :Gregory S. Ketterman
Issued : 12/29/2009
Title :FIN FOR OSCILLATING FOIL PROPULSION SYSTEM
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals by the SPE the quality of the text of the proposed certificate and drawings are so poor that thew requested changes can not be ascertained. Please resubmit clear and ledgible copies. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

JOSEPH E. MUETH, ESQ.
JOSEPH E. MUETH LAW CORPORATION
100 E. CORSON STREET
PASADENA, CALIFORNIA 91103-3842

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/21/2011

TO SPE OF : ART UNIT 3617 Morano IV Samuel (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/499179 Patent No.: 7637791

CofC mailroom date: 6/15/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Col. 5 Line 2

Certificates of Correction Branch

571-272-8680

Thank You For Your Assistance

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

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

Comments:

SPE **Art Unit** 3617

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/05/2010

Applicant	: Angus M. Dorbie	: DECISION ON REQUEST FOR
Patent Number	: 7652677	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/499,200	: OF WYETH
Filed	: 08/03/2006	:
		:

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

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/499,204	08/03/2006	Jeral Garcia Estupinan	TWCI-0065	2324

26980 7590 12/14/2010

Lawrence A. Aaronson, P.C.
Lawrence A. Aaronson
12850 Highway 9
Suite #600 PMB 338
Alpharetta, GA 30004

EXAMINER	
LE, TOAN M	

ART UNIT	PAPER NUMBER
2857	

NOTIFICATION DATE	DELIVERY MODE
12/14/2010	ELECTRONIC

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

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

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

LARRY@AARONSON.COM
karen@aaronsonwaldman.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper Number: 20101123

Lawrence Aaronson (38,369)
12850 Highway 9
Suite #600 PMB 338
Alpharetta, GA 30004

In re Application of:	:	
Jeral Garcia Estupinan *et al.*	:	DECISION ON PETITION
Serial No.: 11/499,204	:	FOR USE OF COLOR DRAWINGS UNDER 37
Filed: 08/07/2006	:	C.F.R 1.84(a)(2)
Attorney Docket No.: **TWCI-0065**	:	

This is a decision in response to the updated petition under 37 C.F.R. 1.84(a)(2), filed 10/23/2010. The petition fee has been paid.

The petition is **GRANTED**.

The Petition sets forth an explanation regarding why the color drawings are necessary, the required fee, the required paragraph is provided in the specification and includes three sets of color drawings.

Accordingly, the color drawings are accepted as formal drawings in the above-referenced application.

Drew A. Dunn, Supervisory Patent Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MAILED

MAY 29 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,860,839 :
Issued: December 28, 2010 : DECISION ON PATENT TERM
Application No. 11/499,250 :
Filed: August 4, 2006 :
Atty. Dkt. No.: 18962-046001 / P4442US1 :

This is a decision on the application for patent term adjustment filed February 28, 2011 requesting that the patent term adjustment be increased from 169 days to 314 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,860,839 on December 28, 2010. The patent issued with a patent term adjustment of 169 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of zero days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 145 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at zero days.

35 USC 154(b)(1)(B) states in relevant part:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) is zero days, the period from May 18, 2009, the date that the RCE was filed, to December 28, 2010, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Patent No. 8,015,162	:
Monika Henzinger	: DECISION ON REQUEST FOR
Issue Date: September 6, 2011	: RECONSIDERATION OF
Application No. 11/499,260	: PATENT TERM ADJUSTMENT
Filed: August 4, 2006	: and
Attorney Docket No. **16113-1582001**	: NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 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 three hundred twenty-nine (329) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-nine (199) days.

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

BACKGROUND

On September 6, 2011, the above-identified application matured into U.S. Patent No. 8,015,162, with a revised patent term adjustment of 287 days. On November 4, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 329 days.

Preliminarily, pursuant to their duty of good faith and candor, Patentee discloses that the Office failed to enter several periods of reduction for applicant delay. First, patentee correctly discloses that a period of reduction of 2 days, pursuant to 37 CFR 1.704(b), should have been entered for the filing of a complete reply to the notice to file missing parts mailed August 22, 2006 not being filed until three months and 2 days later on November 24, 2006. Second, patentee correctly discloses that a period of reduction of 77 days, pursuant to 37 CFR 1.704(c)(8), should entered for the filing of an information disclosure statement on December 15, 2010, 77 days subsequent to the filing of a reply on September 29, 2010. Likewise, patentee correctly discloses that a period of reduction of 44 days, pursuant to 37 CFR 1.704(c)(8), should entered for the filing of supplemental response on January 28, 2011, 44 days subsequent to the filing of the information disclosure statement on December 15, 2010. In view thereof, periods of reduction of 2, 77 and 44 days have been entered for applicant delay.

Moreover, patentee correctly asserts that the entry of a period of reduction, pursuant to 37 CFR 1.704(c)(10) should be corrected from 48 days to 13 days. A review of the record confirms that after the mailing of the notice of allowance on April 29, 2011, a 312 amendment was filed on July 21, 2011. In reply to that amendment on August 2, 2011, the examiner mailed a supplemental notice of allowability. Thus, the period of applicant delay is 13 days beginning on July 21, 2011 and ending on August 2, 2011. In view thereof, the period of reduction of 48 days has been removed and a period of reduction of 13 days is entered.

However, 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 requests for continued examination on August 3, 2009 and September 29, 2010) the Office mailed a Notice of Allowance on April 29, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 131 day period from April 29, 2011 (the mailing date of the Notice of Allowance) until September 6, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 131

days and be increased from 0 to 131 days. This argument is at issue.

RELEVANT STATUTE AND REGULATIONS

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

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on August 4, 2006 and the patent not having issued as of the day after the three year date, August 5, 2009, and a request for continued examination under 132(b) having been filed on August 3, 2009. As the RCE was filed prior to the three year anniversary, the entire 763-day over three year period beginning on August 5, 2009 (including the 131 day period beginning on April 29, 2011) 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

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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.

after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides

for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," meaning that the limitations of paragraph 2 apply to this paragraph's extension of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified

actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).
Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants extensions of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent. Thus, not including "any time consumed by" means not including in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days taken up with or any time consumed by clauses (i)-(iii), including filing of a request for continued examination.

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

The "time consumed by" or taken up with the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the American Inventors Protection Act of 1999, as 35 U.S.C. 154(b).

By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed.

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request.

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 first request for continued examination was filed on August 3, 2009, and the patent issued by virtue of that request on September 6, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 3, 2009 and ending on September 6, 2011 is not included in calculating Office delay.

CONCLUSION

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

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

The 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 hundred ninety-nine (199) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,015,162

DATED : **September 6, 2011** **DRAFT**

INVENTOR(S) : Henzinger

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 287 days

Delete the phrase "by 287 days" and insert – by 199 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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IRVINE CA 92614

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of
Dinhphuoc V. Hoang et al.
Application No. 11/499,285 : ON PETITION
Filed: August 4, 2006
Attorney Docket No. SKYWRKS.075CP2

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 24, 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 February 12, 2009 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed September 24, 2009.

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 3773 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may 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

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HOWARD M COHN
PATENT ATTORNEY LLC
30195 Chagrin Blvd, #300
CLEVELAND OH 44124

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of

Dyer

Application No. 11/499,354

Filed: August 7, 2006

DECISION ON PETITION

Attorney Docket No. **DYE 001 P2**

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed August 3, 2010. The final Office action set a shortened statutory period for reply of three months from its mailing date. The application became abandoned on November 4, 2010. A Notice of Abandonment was mailed March 1, 2011.

The Request for Continued Examination filed December 6, 2011, is noted.

The application file is being forwarded to Technology Center 3700, GAU 3711 for further processing.

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

/Kenya A. McLauglin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 208
PALO ALTO CA 94306-2009

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael D. HUDSON et al.	:	
Application No. 11/499,405	:	DECISION ON PETITION
Filed: August 04, 2006	:	
Attorney Docket No. FCSN3000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 03, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 29, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 30, 2011.

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

Petitioner has provided the Office with the required reply and petition fee, however a petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) was not including.

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) 272-4231.

/Michelle R. Eason/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date January 7, 2012

In re Application of Michael Hudson

Application No. 11499405

Filed: 04-Aug-2006

DECISION ON PETITION

UNDER CFR 1.137(b)

Attorney Docket No. FCSN3000

This is an electronic decision on the petition under 37 CFR 1.137(b), January 7, 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	11499405
Filing Date	04-Aug-2006
First Named Inventor	Michael Hudson
Attorney Docket Number	FCSN3000
Title	High quality, controlled latency multi-channel wireless digital audio distribution system a

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 11-03-2011
- ○ 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	/Gerald B. Rosenberg/
Name	Gerald Rosenberg
Registration Number	30320

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OAKLAND, CA 94612-0250

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SEP 23 2010

OFFICE OF PETITIONS

In re Application of :
Hutton et al. :
Application No. 11/499,451 : DECISION GRANTING PETITION
Filed: August 4, 2006 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. ALTRP215C1/A02309C1 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 15, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/775,996, filed March 31, 2006, as 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/775,996, which was filed on March 31, 2006, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title as well as the Application Data Sheet (ADS), as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the 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. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This matter is being referred to Technology Center Art Unit 2825 for appropriate action on the amendment submitted July 15, 2010, including consideration by the examiner for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/499,451	08/04/2006	2825	1100	ALTRP215C1/A02309C1	22	2

CONFIRMATION NO. 2964

CORRECTED FILING RECEIPT

22434
Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

OC00000043629650

Date Mailed: 09/22/2010

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)

Michael D. Hutton, Mountain View, CA;
Gregg William Baeckler, San Jose, CA;
Jinyong Yuan, Cupertino, CA;
Chris Wysocki, Toronto, CANADA;
Pouyan Djahani, Toronto, CANADA;

Assignment For Published Patent Application

Altera Corporation, San Jose, CA

Power of Attorney: The patent practitioners associated with Customer Number 51501

Domestic Priority data as claimed by applicant

This application is a CON of 11/486,164 07/12/2006 PAT 7,705,628
which claims benefit of 60/775,996 03/31/2006

Foreign Applications

If Required, Foreign Filing License Granted: 08/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/499,451**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

PROGRAMMABLE LOGIC DEVICE HAVING LOGIC ELEMENTS WITH DEDICATED HARDWARE TO CONFIGURE LOOK UP TABLES AS REGISTERS

Preliminary Class

716

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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SAN FRANCISCO CA 94158

MAILED

MAR 18 2011

OFFICE OF PETITIONS

In re Application of :
James McSwiggen et al :
Application No. 11/499,521 : DECISION GRANTING PETITION
Filed: August 4, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SIR-MIS-00001-US-CNT|5| :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 26, 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 1635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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4TH FLOOR
SAN FRANCISCO, CA 94158

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
James McSwiggen, et al.	:	
Application No.: 11/499,529	:	ON PETITION
Filed: August 4, 2006	:	
Attorney Docket No.: SIR-MIS-00001-US-CNT[2]	:	

This is a decision on the petition, filed March 7, 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 19, 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 1635 for further processing of the request for continued examination and appropriate action by the Examiner in the normal course of business on the concurrently filed amendment in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

MT.

Paper No.: _____

DATE : April 27, 2011

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No. 11/499529 patent No.:7923547 B2

C of C mailroom date:--04-21-11

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.

X **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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_____

/Heather Calamita/ **1635**

SPE **Art Unit**

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LOUIS MICHAUD
1269 ANDREW C.
SAMIA ON N7V 4H4 CA CANADA

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Louis MICHAUD :
Application No. 11/499,538 : DECISION ON PETITION
Filed: August 4, 2006 :
Attorney Docket No. AVE-CIP1 :

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper reply to the after final Office action dated November 13, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2010.

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

The Examiner assigned to this application has approved the Amendment filed with petition dated October 20, 2010.

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

This application is being referred to Technology Center 3745 for appropriate action by the Examiner in the normal course of business.

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

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c/o Sirna Therapeutics, Inc.
1700 Owens Street
4th Floor
San Francisco CA 94158

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of	:	
James McSwiggen, et al..	:	
Application No. 11/499,828	:	DECISION GRANTING PETITION
Filed: August 4, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SIR-MIS-00001-US-CNT[4]	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 12, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 19, 2011

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/499828 Patent No.:7956176

CofC mailroom date: 6/14/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: 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.

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

Comments: _____

_____

_____

_____

_____

/Heather Calamita/ **SPE** — **1635** **Art Unit**

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NOKIA CORPORATION
C/O WARE, FRESSOLA, VAN DER SLUYS & ADOLPHSON LLP
BUILDING FIVE, BRADFORD GREEN
755 MAIN STREET, PO BOX 224
MONROE CT 06468

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Application of :
Ann-Mari Vimpari, et al :
Application No. 11/499,850 : DECISION GRANTING PETITION
Filed: August 4, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 944-008.023-1/46745US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 1, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2617 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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JUN 21 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,856,424 :
Cisler et al. : DECISION ON REQUEST FOR
Issue Date: December 21, 2010 : RECONSIDERATION OF
Application No. 11/499,881 : PATENT TERM ADJUSTMENT
Filed: August 4, 2006 :
Attorney Docket No. 18962-041001/P4417US1 :
Title: USER INTERFACE FOR BACKUP MANAGEMENT :

This is a decision on the petition filed on February 22, 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-eight (138) days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,856,424 on December 21, 2010. The patent issued with a patent term adjustment of 60 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of 0 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 93 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 0 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3

years after the actual filing date of the application in the United States, not including – (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any

further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

It is also noted that patentees indicate that an additional reduction of 15 days is warranted for the submission of a supplemental response in the form of an information disclosure statement on March 16, 2010 after an initial response was filed on March 1, 2010.

However consideration of the 15 day reduction 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.

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 the disclosure 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.

In view thereof, no adjustment to the patent term will be made.

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

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

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

Charlema Grant
Attorney
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of :
Kasturi et al. :
Application No. 11/499,908 : ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. 2534.0140003 :
For: SYSTEMS AND METHODS FOR INFORMATION EXCHANGE AND SYNCHRONIZATION USING DTMF OVER TELEPHONE COMMUNICATION CHANNELS

This decision is in response to the petition under 37 CFR 1.47(a) filed on August 7, 2006.

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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.**

Petitioners have submitted a copy of a supplemental declaration and a Rule 47 petition previously filed in Application No. 10/033,372. It is noted the present application is a continuation of Application No. 10/909,834, filed August 3, 2004, which is a continuation of Application No. 10/033,372, filed October 17, 2001. A decision, mailed on February 6, 2004, granted Rule § 1.47 status to Application No. 10/033,372.

Pursuant to 37 CFR 1.63(d), petitioners may obtain Rule § 1.47 status in the present "grand child" application if petitioners file a copy of the February 6, 2004 decision granting § 1.47 status in Application No. 10/033,372 with a reconsideration petition.

No petition fee has been or will be charged in connection with this matter.

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
DEC 08 2011
OFFICE OF PETITIONS

In re Application of :
Kasturi et al. :
Application No. 11/499,908 : ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. 2534.0140003 :
For: SYSTEMS AND METHODS FOR INFORMATION EXCHANGE AND SYNCHRONIZATION USING DTMF OVER TELEPHONE COMMUNICATION CHANNELS

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 18, 2011.

The petition is **GRANTED**.

Petitioners have submitted a copy of a supplemental declaration previously filed in Application No. 10/033,372. It is noted the present application is a continuation of Application No. 10/909,834, filed August 3, 2004, which is a continuation of Application No. 10/033,372, filed October 17, 2001. Petitioners have provided a copy of the decision mailed on February 6, 2004, which granted Rule § 1.47 status to Application No. 10/033,372.

The Office will not forward notice of this application's filing to the non-signing inventor because notice regarding the filing of the previous application has been attempted.

While the application has been accorded Rule 47 status, this does not absolve applicants of the necessity to respond to the Notice to File Corrected Application Papers, mailed November 23, 2011, which requires applicants to submit an executed declaration that lists at least one given name, not merely an initial, for G. Alagiri.

Per MPEP 605.04(b): A situation may arise where an inventor's full given name is a singular letter, or is a plurality of singular letters. For example, an inventor's full given name may be "J. Doe" or "J.P. Doe," i.e., the "J" and the "P" are not initials. In such a situation, identifying the

inventor by his or her family name and the singular letter(s) is acceptable, since that is the inventor's full given name.

If this is the case for G. Alagiri, petitioners should provide a declaration/statement that the singular lettering set forth is indeed the inventor's given name.

If G. is not Mr. Alagiri's first name, petitioners should file a supplemental declaration signed by the available joint inventors, which sets forth Mr. Alagiri's full name, as well as complete information for him and the other joint inventors.

The Office will not "reopen" Rule 47 status in Application No. 10/033,372. The record will remain as it is.

After the mailing of this decision, the application will be forwarded to the Office of Data Management to await receipt of a supplemental declaration.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford, MA 01886

MAILED

NOV 01 2010

OFFICE OF PETITIONS

In re Patent of Yonghua Gai et al.	:	DECISION ON REQUEST
Patent No. 7,635,683	:	FOR RECONSIDERATION OF
Issue Date: December 22, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/499,917	:	AND NOTICE OF INTENT TO
Filing Date: August 4, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. 4056.1110 US	:	CORRECTION

This is a decision on the petition filed August 6, 2010, which is being treated as a renewed 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 hundred twenty-six (126) 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 hundred twenty-six (126) days is **GRANTED to the extent indicated herein.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

A petition under 37 C.F.R. § 1.705(d) was previously filed February 3, 2010.

The petition asserted the proper patent term adjustment is 126 days, which is the sum of 184 days of delay under 37 C.F.R. § 1.702(a) ("A Delay") and 140 days of delay under 37 C.F.R. § 1.702(b) ("B Delay") reduced by 2 days of overlap between the periods of A Delay and B Delay and reduced by 196 days of delay under 37 C.F.R. § 1.704 ("Applicant Delay").

A decision responding to the February 3, 2010 petition was mailed July 8, 2010. The decision stated the patent term adjustment is 56 days, which is the sum of 43 days of A Delay and 140 days of B Delay reduced by 0 days of overlap between the periods of A Delay and B Delay and reduced by 127 days of Applicant Delay.

The July 8, 2010, decision did not reconsider the Office's prior determination of the number of days of A Delay and Applicant Delay.

In view of arguments set forth in the petition, the Office has determined a review of the Office's prior determination of the number of days of A Delay and Applicant Delay is warranted.

A Delay

Delay Under 37 C.F.R. § 1.703(a)(2)

On a date prior to issuance of the patent, the Office entered a 43-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(2) for delay in the issuance of the September 15, 2008 final Office action. A review of the record indicates the Office should have entered a 42-day, not a 43-day, increase in patent term adjustment under 37 C.F.R. § 1.703(a)(2).

Pursuant to 37 C.F.R. § 1.703(a)(2), the period of A Delay includes:

> 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.

A reply to a non-final Office action was filed April 4, 2008. A final Office action was issued on September 15, 2008.

The Office incorrectly entered the filing date for the April 4, 2008 reply as April 3, 2008, in the Office's PALM system. As a result of the incorrect entry, the Office determined the period of delay under 37 C.F.R. § 1.703(a)(2) was 43 days.

The number of days beginning August 5, 2008, the day after the date four months after the date the reply was filed, and ending September 15, 2008, is 42 days. Therefore, the period of delay under 37 C.F.R. § 1.703(a)(2) is 42 days, not 43 days.

Delay Under 37 C.F.R. § 1.703(a)(3)

Facts

The Office mailed a final Office action on September 15, 2008.

Patentees filed an amendment on November 17, 2008.

Patentees filed a Notice of Appeal on December 16, 2008.

The Office issued an Advisory Action on January 13, 2009.

Patentees filed a "Petition for Withdrawal of Finality, Entry of Amendment and Withdrawal of Restriction Requirement" on March 10, 2009.

Patentees filed an Appeal Brief on April 17, 2009. The Appeal Brief was accompanied by a copy of a declaration by Dr. Zhe Wang previously filed September 12, 2007, and a copy of a declaration by Dr. Xiang Luo previously filed April 4, 2008.

The Office issued a Notice of Allowance and Notice of Allowability on August 6, 2009. The "Reasons for Allowance" attached to the Notice of Allowability stated,

> Applicant's notice of appeal filed April 17, 2009 is acknowledged and has been fully considered. Applicant's petition to withdraw the finality of the last office action, also filed April 17, 2009 is acknowledged. In light of the 132 declaration filed on April 17, 2009, discussed below, the finality of the last office action is withdrawn ... [and] the appeal and petition are dismissed as moot.
>
> In light of the withdrawn finality, the amendment filed November 17, 2008 has been entered.

The instant petition states the Office should have entered a 142-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(3) as a result of Office delay in the issuance of the Notice of Allowance.

Discussion

The appeal brief filed April 17, 2009, did not simply regurgitate the exact same facts and arguments made in the November 17, 2008 reply. The remarks section of the November 17, 2008 reply is 8 pages long. The argument section of the appeal brief is 20 pages.

An example of differences between the November 17, 2008 reply and the appeal brief:

> The November 17, 2008 reply stated,
>
> > Furthermore, Applicants have provided unexpected results showing that when compared to Wang *et al.*, specifically the quinoxalinyl compounds of Example 237 and 243, the quinoxalinyl compounds of the present invention possess unexpectedly superior biological activity. (Declaration of Dr. Zhe Wang, filed September 12, 2007; hereinafter "the Wang Declaration").[1]
>
> The appeal brief includes the quoted statement above *and*, immediately following the statement, a discussion of specific reasons the Wang Declaration shows the quinoxalinyl compounds of the present invention possess unexpectedly superior biological activity compared to the quinoxalinyl compounds in Wang *et al.*[2]

[1] Page 34 of the reply.

[2] Page 24 of the brief.

The brief appears to be a very intelligently and professionally drafted document which provides facts and arguments in an organized and cohesive manner. In view of the quality of the brief, the possibility an examiner might find one or more arguments in the brief to be persuasive is substantial. Therefore, the Office will *not* simply assume none of the arguments played any role in the examiner's choice to allow the application.

The Office has considered the record and determined the record is insufficient to establish none of the additional facts and none of the additional arguments in the appeal brief played any role in the examiner's choice to issue a Notice of Allowance. In other words, the record fails to prove the examiner would have mailed a Notice of Allowance in response to the November 17, 2008 reply absent consideration of the facts and/or arguments in the appeal brief.

In view of the prior discussion, the Office will not enter any increase in patent term adjustment under 37 C.F.R. § 1.703(a)(3) as a result of Office delay in the issuance of the Notice of Allowance.

If a request for reconsideration is filed asserting entry of a 142-day increase in patent term adjustment is appropriate under 37 C.F.R. § 1.703(a)(3), Applicants may wish to address whether or not a 151-day reduction should be entered under 37 C.F.R. § 1.704(c)(8) if the Office agrees a 142-day increase is appropriate under 37 C.F.R. § 1.703(a)(3). In other words, in view of the arguments in the appeal brief supplementing the arguments in the prior reply, Applicants may wish to discuss whether or not the brief should be treated the same as a supplemental reply filed after a party has already filed a reply to an Office action.

B Delay

The period of B Delay is 140 days and is not in dispute.

Overlap Between A Delay and B Delay

The prior decision stated the period of A Delay and the period of B Delay do not overlap. The instant petition states the period of overlap is 2 days based on an assumption the Office will enter a 142-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(3). However, the Office has not entered the 142-day increase in patent term adjustment. Therefore, the period of overlap is zero days.

Applicant Delay

Although the Office agrees the total period of Applicant Delay is 196 days, two differences exist between the numbers used by Applicants and the numbers used by the Office when determining the total number of days of Applicant Delay.

First Difference

Applicants filed a reply to a non-final Office action on September 12, 2007, and an information disclosure statement ("IDS") on November 19, 2007.

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.

Applicants state a 69-day reduction is appropriate as a result of the filing of the IDS.

The IDS was not expressly requested by the examiner and did not include a statement under 37 C.F.R. § 1.704(d). Therefore, the Office agrees a reduction under 37 C.F.R. § 1.704(c)(8) is warranted.

The number of days beginning on September 13, 2007, the day after the date the initial reply was filed, and ending on November 19, 2007, the date the IDS was filed, is 68 days. Therefore, a reduction of 68 days, not 69 days, in patent term adjustment is warranted as a result of the IDS filed November 19, 2009.

Second Difference

On a date prior to issuance of the patent, the Office entered a 34-day reduction under 37 C.F.R. § 1.704(b) for Applicants' delay in filing a reply to the November 29, 2007 non-final Office action. A review of the record indicates the Office should have entered a 35-day, not a 34-day, reduction in patent term adjustment for delay in the submission of a reply to the November 29, 2007 non-final Office action.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, 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.

The Office mailed a non-final Office action on November 29, 2007. A reply to the non-final Office action was filed April 4, 2008.

As previously stated, the Office incorrectly entered the filing date for the April 4, 2008 reply as April 3, 2008, in the Office's PALM system. As a result of the incorrect entry, the Office determined the period of delay under 37 C.F.R. § 1.704(b) was 34 days.

The number of days beginning March 1, 2008, the day after the date three months after the date the non-final Office action was mailed, and ending on April 4, 2008, the date the reply was filed, is 35 days. Therefore, the Office should have entered a 35-day, not a 34-day, reduction under 37 C.F.R. § 1.704(b) for delay in the submission of a reply to the November 29, 2007 Office action.

Conclusion

The total period of A Delay is 42 days.

The total period of B Delay is 140 days.

The periods of A Delay and B Delay do not overlap.

The total period of Applicant Delay is 196 days.

The total period of Office delay is 182 days, which is the sum of 42 days of A Delay and 140 days of B Delay.

The 196-day period of Applicant Delay of 196 days is greater than the 182-day period of Office delay. Therefore, the patent term adjustment is 0 days.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **zero (0)** 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.	:	7,635,683 B2
APPLICATION NO.	:	11/499,917
DATED	:	December 22, 2009
INVENTOR(S)	:	Yonghua Gai et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 13 days.

Delete the phrase "by 13 days" and insert -- by 0 days--

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OFFICE OF PETITIONS

ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford, MA 01886

In re Patent of Yonghua Gai et al.	:	DECISION ON REQUEST
Patent No. 7,635,683	:	FOR RECONSIDERATION OF
Issue Date: December 22, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/499,917	:	AND NOTICE OF INTENT TO
Filing Date: August 4, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. 4056.1110 US	:	CORRECTION

This is a decision on the petition filed December 1, 2010, which is being treated as a renewed 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 hundred twenty-six (126) 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 hundred twenty-six (126) days is **GRANTED**.

A petition under 37 C.F.R. § 1.705(d) was previously filed August 6, 2010. The Office mailed a decision on the petition on November 1, 2010. The decision stated,

> The total period of A Delay [delay under 37 C.F.R. § 1.703(a)] is 42 days.
>
> The total period of B Delay [delay under 37 C.F.R. § 1.703(b)] is 140 days.
>
> The periods of A Delay and B Delay do not overlap.
>
> The total period of Applicant Delay [delay under 37 C.F.R. § 1.704] is 196 days.
>
> The total period of Office delay is 182 days, which is the sum of 42 days of A Delay and 140 days of B Delay.
>
> The 196-day period of Applicant Delay of 196 days is greater than the 182-day period of Office delay. Therefore, the patent term adjustment is 0 days.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **zero (0)** days.

The instant petition was filed on December 1, 2010. The petition asserts the correct patent term adjustment is 126 days.

The instant petition states the total period of A Delay should include an additional 142 days for Office delay beginning March 18, 2009, and ending August 6, 2009. The Office agrees an additional 142 days should be included as part of the period of A Delay. Therefore, the total period of A Delay is 184 days.

The period of B Delay is 140 days and is not in dispute.

The instant petition states, and the Office agrees, the periods of A Delay and B Delay overlap by 2 days.

The total period of Applicant Delay is 196 days and is not in dispute.

The correct patent term adjustment is 126 days, which is the sum of 184 days of A Delay and 140 days of B Delay reduced by 2 days for overlap between the periods of A Delay and B Delay and reduced by 196 days for Applicant Delay.

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 hundred twenty-six (126)** 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.	:	7,635,683 B2
APPLICATION NO.	:	11/499,917
DATED	:	December 22, 2009
INVENTOR(S)	:	Yonghua Gai et al.

DRAFT

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

On the Title Page:

The first or sole Notice should read --

Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 126 days.

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	11500050
Filing Date	07-Aug-2006
First Named Inventor	David Nelson
Art Unit	1723
Examiner Name	NICHOLAS SMITH
Attorney Docket Number	DP-314401
Title	MONOLITHIC SUPPORTED OXYGEN GENERATOR

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required ○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ○ Drawing corrections and/ or other deficiencies are attached. ☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ○ A sole inventor ○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors. ○ A joint inventor; all of whom are signing this e-petition. ○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Craig A. Redinger/
Name	Craig A. Redinger
Registration Number	55886

UNITED STATES 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 2,2011

In re Application of :

David Nelson

Application No : 11500050

Filed : 07-Aug-2006

Attorney Docket No : DP-314401

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed November 2,2011 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUEY-SHEN WU
25 HARRIS CIRCLE
NEWARK DE 19711

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of :
Huey-Shen Wu :
Application No. 11/500,071 : ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. :

This is a decision on the petition, filed May 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 **DISMISSED**.

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled **"Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181."** *See* 37 CFR 1.181(f).

On September 22, 2009, the Office mailed a Notice of Non-Compliant Amendment (Notice), which set a one (1) month or thirty (30) days which ever is longer to reply. The application was held to have gone abandoned for failure to submit a timely response to the Notice. On March 31, 2010, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment since a response was indeed filed not only to the letter of September 22, 2009, but also to the letter mailed by the Office on January 12, 2010.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates that a response to the Notice was filed on October 15, 2009. However, the response was considered informal and a second Notice for "Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121)" was mailed on January 12, 2010, with no new time period for reply being provided. Therefore, the time for reply continued to toll from the first Notice mailed on September 22, 2009. Office records indicate that petitioner submitted a response to the second Notice, which was received on February 1, 2010.

However, the response was considered untimely as the petitioner did not include a request and fee for a five (5) month extension of time. Therefore, as the response was considered to be untimely the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

Telephone inquiries related to this decision may be directed to the JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement

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ERICKSON, KERNELL, DERUSSEAU & KLEYPAS, LLC
800 W. 47TH STREET, SUITE 401
KANSAS CITY MO 64112

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
George A. LAFFERTY III, et al :
Application No. 11/500,120 : ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. 3974 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 11, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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.** 11/500,120	**Applicant(s)** LAFFERTY ET AL.	
	Examiner RYAN D. KWIECINSKI	**Art Unit** 3635	

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

THE REPLY FILED 24 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: *The claims were directed to a structural reinforcing panel and now after amendment to the claims, they require a combination of a structural reinforcement panel along with a building having a frame structure formed from studs, sill plates, and a footing. The addition of the combination changes the scope of the invention and will require an updated and an additional search.*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Ryan D Kwiecinski/
Examiner, Art Unit 3635

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P.O. Box 1450
Alexandria, VA 22313-1450
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ERICKSON, KERNELL, DERUSSEAU & KLEYPAS, LLC
800 W. 47TH STREET, SUITE 401
KANSAS CITY MO 64112

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of :
LAFFERTY, et al :
Application No. 11/500,120 : ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. 3974 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 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 May 11, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 12, 2010.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on November 24, 2010,

was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner.

/Diane C. Goodwyn/
Diane C. Goodwyn
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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OFFICE OF PETITIONS

BYUNG IL, HAM
8 CALLE VIENTO
RANCHO PALES VERDES CA 90275

In re Application of
Byung Il. Ham
Application No. 11/500,191
Filed: August 7, 2006
For: ELECTRODELESS LAMP SYSTEM

ON COMMUNICATION

REQUIREMENT FOR ADDITIONAL INFORMATION

A communication was filed on May 28, 2010, requesting that the Office give applicant another chance to reply to the Restriction Requirement Office action mailed September 29, 2009.

The application became abandoned for failure to reply to the Restriction Requirement Office action mailed September 29, 2009. A Notice of Abandonment was mailed on May 10, 2010.

Applicant may file a petition under the provisions of 37 CFR 1.137(b) for revival of the above-identified application accompanied by the petition fee in accordance with 37 CFR 1.17(m), at the small entity rate of $810.00. A blank copy of the petition under 37 CFR 1.137(b), and a copy of the Restriction Requirement Office action is enclosed for your convenience.

Applicant is given a period of **TWO MONTHS** from the date of this communication to reply to the above matter.

The response should include a cover letter entitled "Response to Requirement for Additional Information."

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

By mail:

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: Blank copy of form PTO/SB/64 and copy of Office Action mailed September 29, 2009

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.
11/500,191	08/07/2006	Byung Il Ham		3980

7590 09/29/2009

BYUNG IL HAM
8 CALLE VIENTO
RANCHO PALES VERDES, CA 90275

EXAMINER	
SANEI, HANA ASMAT	

ART UNIT	PAPER NUMBER
2889	

MAIL DATE	DELIVERY MODE
09/29/2009	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	11/500,191	HAM, BYUNG IL	
	Examiner	Art Unit	
	HANA A. SANEI	2889	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 September 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-24* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claim(s) 1-12, 20-24, drawn to an electrodeless lamp system, classified in class 313, subclass 607.

II. Claim(s) 13-19, drawn to an apparatus for use with an electrodeless lamp, classified in class 445, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

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 and materially different apparatus (MPEP § 806.05(g)). In this case the apparatus as claimed may be used to make a materially different product such as a plasma display panel.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The examiner has required restriction between product or apparatus claims and process claims. Where applicant elects claims directed to the product/apparatus, and all product/apparatus claims are subsequently found allowable, withdrawn process claims that include all the limitations of the allowable product/apparatus claims should be considered for rejoinder. All claims directed to a nonelected process invention must include all the limitations of an allowable product/apparatus claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product/apparatus claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product/apparatus are found allowable, an otherwise proper restriction requirement between product/apparatus claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product/apparatus claim will not be rejoined. See MPEP § 821.04.

Additionally, in order for rejoinder to occur, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product/apparatus claims. Failure to do so may result in no rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hana A. Sanei whose telephone number is (571) 272-8654. The examiner can normally be reached on Monday- Friday, 9 am - 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minh-Toan Ton can be reached on (571) 272-2303. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Hana Sanei/
Hana Asmat Sanei
AU 2889 Patent Examiner

UNITED STATES 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
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of :
Keith Allen Roberts, et al. :
Application No. 11/500,202 : ON PETITION
Filed: August 7, 2006 :
Attorney Docket No.: 39176-1 :

This is a decision on the renewed petition under 37 CFR 1.182, filed July 29, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

This application is being referred to Technology Center AU 1616.

Any questions concerning this matter may 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
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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
11/500,202	08/07/2006	1616	725	39176-1	29	3

CONFIRMATION NO. 3805

CORRECTED FILING RECEIPT

24256
DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

Date Mailed: 09/15/2010

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)

Keith Allen Roberts, White Bear Lake, MN;
Carl William Hahn, Sugar Land, TX;
Gabriel P. Kern, Birchwood, MN;
Ryan A. Hoitink, St. Paul, MN;
Robert Orvin Crowder, Lino Lakes, MN;
John Henry Burban, Lake Elmo, MN;

Power of Attorney: The patent practitioners associated with Customer Number 24256

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/705,924 08/05/2005

Foreign Applications

If Required, Foreign Filing License Granted: 08/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/500,202**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Sterilant composition and system

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).

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-05-10

TO SPE OF : ART UNIT 3622

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/500492 Patent No.: 7792697

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

/Eric W. Stamber/, SPE AU3622

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

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED
AUG 26 2010
OFFICE OF PETITIONS

In re Application of Cole et al. :
Application No. 11/500,497 : DECISION ON PETITION
Filing Date: August 8, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1410/77504 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 12, 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 and in the application data sheet 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) 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.

This application is being forwarded to Technology Center Art Unit 3781 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.

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
11/500,497	08/08/2006	3781	1130	1410/77504	19	3

CONFIRMATION NO. 2941

CORRECTED FILING RECEIPT

48940
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Date Mailed: 08/26/2010

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)

Carole Anne Cole, Budd Lake, NJ;
Gladys Odette Sierra-Gomez, Woodbridge, NJ;
Jeffrey Thomas Weber, Lake Zurich, IL;
Elizabeth Mc Dermott, Clifton, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 48940

Domestic Priority data as claimed by applicant

This application is a CIP of 11/438,705 05/23/2006

Foreign Applications

If Required, Foreign Filing License Granted: 08/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/500,497**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Package integrity indicator for container closure

Preliminary Class

220

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
MAY 10 2011
OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

In re Application of Vogt et al. :
Application No. 11/500,497 : Decision on Petition
Filing Date: August 8, 2006 :
Attorney Docket No. 1410/77504 :

This is a decision on the petition filed March 23, 2011, under 37 C.F.R. § 1.182, which requests a change to an inventor's name.

The petition is **granted**.

M.P.E.P. § 605.04(c) states:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The petition includes an affidavit signed by the first inventor using both her names and states her name has changed as a result of marriage. Therefore, Office records have been changed to indicate the name of the first inventor of record is Carole Ann Vogt.

Technology Center Art Unit 3788 will be informed of the instant decision and the request under 37 C.F.R. § 1.48, which was filed with the instant petition, will be addressed in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Patent No. 7,569,384
Issue Date: August 4, 2009
Appl. No: 11/500508
Filed: March 13, 2012
For: Correction of Inventorship

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

The petition is **GRANTED**.

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

/Manjunath Rao /

_____

Manjunath Rao
Supervisory Patent Examiner Art Unit 1656
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 23 2010

OFFICE OF PETITIONS

DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

In re Application of :
Lin et al. :
Application No. 11/500,631 : ON PETITION
Filed: August 8, 2006 :
Attorney Docket No. 5820.677 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 22, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 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 (previously submitted on March 5, 2010), (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 1634 for further examination on the merits.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : June 6,2011

In re Application of :

Olivier Magnin

Application No : 11500699

Filed : 08-Aug-2006

Attorney Docket No : FA1485 US NA

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed June 6,2011 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

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

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11500699
Filing Date	08-Aug-2006
First Named Inventor	Olivier Magnin
Art Unit	1762
Examiner Name	MARIE REDDICK
Attorney Docket Number	FA1485 US NA
Title	ARTICLE OF MANUFACTURE COMPRISING SURFACES OF THERMOPLASTIC COMPOSITES COATED WITH A POWDER COATING COMPOSITION

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

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

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/BRIAN J MYERS/
Name	Brian J Myers
Registration Number	58281

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Linda K. Russell
Air Liquide
Suite 1800
2700 Post Oak Blvd.
Houston TX 77056

MAILED

FEB 01 2012

OFFICE OF PETITIONS

In re Application of :
Brugerolle, et al. : DECISION ON PETITION
Application No. 11/500,712 :
Filed: August 8, 2006 :
Atty. Dkt. No.: SERIE 7003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 2012, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned November 24, 2011 for failure to timely submit a proper reply to the Notice of File Corrected Application Papers (Notice) mailed September 23, 2011. Notice of Abandonment was mailed December 21, 2011.

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 10, 2012

Elwood L. Haynes
Air Liquide USA LLC
2700 Post Oak Blvd., Suite 1800
Houston, TX 77056

Patent No. : 8,136,369 B2
Appl. No. : 11/500,712
Inventor(s) : Jean-Renaud Brugerolle, et al.
Issued : March 20, 2012
Title : **SYSTEM AND APPARATUS FOR PROVIDING LOW PRESSURE AND LOW PURITY OXYGEN**
Docket No. : Serie 7003

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt

UNITED STATES 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 RICHARD S ERBE
P.O. BOX 418
5380 SENECA PLACE
SIMI VALLEY, CA 93062

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Gerardo Solorzano-Garcia :
Application No. 11/500,743 : ON PETITION
Filed: August 8, 2006 :
Attorney Docket No. P11-GRCIA-0443 :

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is November 27, 2010. A Notice of Abandonment was mailed March 16, 2011.

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

The petition lacks item (3) the statement of unintentional delay. The statement of unintentional delay cannot be accepted at this time as the signing attorney, Sung Oh has been suspended. An

administratively suspended attorney, agent or person granted limited recognition is prohibited from practicing before the Office in patent cases while administratively suspended. Therefore, the Office does not communicate with attorneys or agents who have been suspended or excluded from practice. Accordingly, this decision is being mailed to the newly appointed practitioners at the address of record. Accordingly, this application cannot be revived until a statement of unintentional delay is submitted by the proper party.

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.**

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

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

SUNG OH
710 QUAIL VALLEY LANE
WEST COVINA, CA 91791

MAILED

SEP 01 2011

OFFICE OF PETITIONS

In re Application of :
Gerardo Solorzano-Garcia :
Application No. 11/500,743 : DECISION ON PETITION
Filed: August 8, 2006 TO WITHDRAW FROM RECORD
Attorney Docket No. P11-GRCIA-0443 :
:

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.

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

A review of the file record indicates that on June 6, 2011 the power of attorney to Sung I. Oh, Professional Law Corporation was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: THE LAW OFFICE OF RICHARD S ERBE
P.O. BOX 418
5380 SENECA PLACE
SIMI VALLEY CA 93062

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE LAW OFFICE OF RICHARD S ERBE
P.O. BOX 418
5380 SENECA PLACE
SIMI VALLEY CA 93062

MAILED

SEP 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Gerardo Solorzano-Garcia	:	
Application No. 11/500,743	:	DECISION ON PETITION
Filed: August 8, 2006	:	
Attorney Docket No. P11-GRCIA-0443	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 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.

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 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). Petitioner has requested that the amendment filed April 22, 2011 by suspended attorney, Sung Oh be considered.

An amendment from the suspended attorney cannot be accepted since Mr. Oh is not currently authorized to practice before the Office. Petitioner is required to submit a proper reply as described above.

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/
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

THE LAW OFFICE OF RICHARD S ERBE
P.O. BOX 418
5380 SENECA PLACE
SIMI VALLEY CA 93062

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Application of
Gerardo Solorzano-Garcia
Application No. 11/500,743
Filed: August 8, 2006
Attorney Docket No. P11-GRCIA-0443

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

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 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).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

Petitioner must now submit a proper reply as described above.

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

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/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

UNITED STATES 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 RICHARD S ERBE
P.O. BOX 418
5380 SENECA PLACE
SIMI VALLEY CA 93062

MAILED

JAN 18 2012

OFFICE OF PETITIONS

In re Application of :
Gerardo Solorzano-Garcia :
Application No. 11/500,743 : DECISION ON PETITION
Filed: August 8, 2006 :
Attorney Docket No. P11-GRCIA-0443 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, August 26, 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 29, 2010. A Notice of Abandonment was mailed March 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00 (previously submitted April 22, 2011); and (3) a proper statement of unintentional delay.

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

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

This matter is being referred to Technology Center AU 3771 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VAGIF ALI-ZADA
20 FLOOK LANE
TORONTO ON M2R 376 CA CANADA

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Vagif ALI-ZADA, et al :
Application No. 11/500,746 : DECISION ON PETITION
Filed: August 9, 2006 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 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 January 16, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on April 17, 2009.

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

The Examiner assigned to this application has approved the corrected drawings filed with the petition on September 7, 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.

/DG/
Diane 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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Lin, et al. :
Application No. 11/500,767 : DECISION
Filed/Deposited: 7 August, 2006 :
Attorney Docket No. 060705 :

This is a decision on the petition filed on 28 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 15 October, 2010, with reply due under a non-extendable deadline on or before 18 January, 2010.

The application went abandoned by operation of law after midnight 18 January, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 28 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of fees due, and made the statement of unintentional delay.

The Office mailed the Notice of Abandonment on 1 February, 2011.

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 Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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

Gregory & Martensen LLP
2018 Bissonnet Street
Houston TX 77005

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Roy P. D'Souza et al. :
Application No. 11/500,806 : DECISION ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. **MOSA.P005** :

This is a decision on the petition under 37 CFR 1.182, filed, November 4, 2010 and supplemented December 1, 2010, to change the name of inventor "T.M. Ravi" to – Thirumalai Muppur Ravi --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt mailed November 10, 2010, which reflects the inventor's change of name, accompanies this decision on petition.

The $400 fee for the petition under 37 CFR 1.182 has been received by petitioner on December 1, 2010.

Any questions concerning this matter may be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Data Management for the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/500,806	08/07/2006	2165	1515	MOSA.P005	58	3

CONFIRMATION NO. 5814

98195
Gregory & Martensen LLP
2018 Bissonnet Street
Houston, TX 77005

CORRECTED FILING RECEIPT

Date Mailed: 11/10/2010

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)

Roy P. D'Souza, Santa Clara, CA;
Thirumalai Muppur Ravi, Santa Clara, CA;

Power of Attorney: The patent practitioners associated with Customer Number 53186

Domestic Priority data as claimed by applicant

This application is a CIP of 11/211,056 08/23/2005 PAT 7,778,976
which claims benefit of 60/650,556 02/07/2005

Foreign Applications

If Required, Foreign Filing License Granted: 08/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/500,806**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

ENTERPRISE SERVER VERSION MIGRATION THROUGH IDENTITY PRESERVATION

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 16 2012
OFFICE OF PETITIONS

Gregory & Sawrie LLP
2018 Bissonnet Street
Houston TX 77005

In re Application of :
D'Souza, et al. :
Application No. 11/500,809 : ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. **MOSA.P002**

This is a decision on the petition under 37 CFR 1.182 filed February 21, 2012, to change the name of the second named inventor cited on this application in USPTO records.

The petition is granted.

The name of the first named joint inventor for the above-cited application is changed to "Thirumalai Muppur Ravi"

A corrected filing receipt was mailed February 23, 2012.

The application file is being directed to the Office of Patent Publications for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of :
Raymond L. Watrous :
Application No. 11/500,871 :
Filed: August 8, 2006 :
Attorney Docket No. ZMC-110US :

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 5, 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 Kenneth N. Nigon, on behalf of the practitioners of record associated with Customer No. 23122.

Customer No. 23122, has been withdrawn as from record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: RAYMOND WATROUS
2 RESEARCH WAY, 1ST FLOOR
PRINCETON, NJ 08540

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
11/500,871	08/08/2006	Raymond L. Watrous	ZMC-110US

CONFIRMATION NO. 5322

23122
RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

POWER OF ATTORNEY NOTICE

Date Mailed: 09/16/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/atkelley/

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

Doc Code: PET.RELIEF
Document Description: Certification and Request for Japan Events Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/501,060	
First Named Inventor:	**Title of Invention:**
Shigetoshi SUGAWA	OPTICAL SENSOR AND SOLID-STATE IMAGING DEVICE

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature	Date March 31, 2011
Name (Print/Typed) George C. Beck	Practitioner Registration Number 38,072

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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P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Sugawa et al.	:	
Application No. 11/501,060	:	DECISION ON PETITION
Filed: August 9, 2006	:	
Attorney Docket No. 039262-0157	:	

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 February 28, 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 2622 for re-mailing the Office action of February 28, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: **Request for Recalculation in view of Wyeth**

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

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

Attorney Docket Number: 102281.57678US	Patent Number: 7,657,908
Filing Date (or 371(b) or (f) Date): August 09, 2006	Issue Date: February 02, 2010
First Named Inventor: Toshihiro TAKAGI	
Title: Television Broadcast Receiver	

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

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

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

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

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

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

☒ *Total of -1- forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1 450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/12/2010

Applicant	: Toshihiro Takagi	: DECISION ON REQUEST FOR
Patent Number	: 7657908	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/501,068	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : May 2,2011

In re Application of :

Mark Burgener

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

Application No : 11501125

Filed : 07-Aug-2006

Attorney Docket No : PER-006-CIP-CON

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2618 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	11501125
Filing Date	07-Aug-2006
First Named Inventor	Mark Burgener
Art Unit	2618
Examiner Name	PABLO TRAN
Attorney Docket Number	PER-006-CIP-CON
Title	INTEGRATED RF FRONT END WITH STACKED TRANSISTOR SWITCH

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	/Martin J. Jaquez/
Name	Martin J. Jaquez
Registration Number	38060

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P.O. Box 1450
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MARTIN J. JAQUEZ, ESQ.
JAQUEZ & ASSOCIATES
SUITE 100D
6265 GREENWICH DRIVE
SAN DIEGO, CA 92122

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Mark L. Burgener, et al.	:	
Application No. 11/501,125	:	DECISION DISMISSING PETITION
Filed: August 7, 2006	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. PER-006-CIP-CON	:	

This is a decision on the petition under 37 CFR 1.313(a), filed August 19, 2011, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on August 2, 2011, with the issue fee being due on or before August 19, 2011. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Telephone inquiries concerning this decision may 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.

The matter is being referred to Technology Center AU 2618 for appropriate processing of the RCE filed August 19, 2011, and for consideration of the concurrently filed information disclosure statement.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/03/2010

Applicant	: Christian Monereau	: DECISION ON REQUEST FOR
Patent Number	: 7648562	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/501,134	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **749** 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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Dr. Sadeg M. Faris
24 Pocantico River Road
Pleasantville NY 10570

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of :
Sadeg M. Faris :
Application No. 11/501,175 : DECISION ON PETITION
Filed: August 7, 2006 :
Attorney Docket No. REVEO-0247USAAON00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 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 September 22, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 22, 2011. Accordingly, the date of abandonment of this application is September 23, 2011. A Notice of Abandonment was mailed on October 5, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $870 and the publication fee of $300, (2) the petition fee of $930, 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

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK NC 27709

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Tatsuno :
Application No. 11/501,260 : NOTICE
Filed: August 9, 2006 :
Attorney Docket No. 4230-141 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Bib Data Sheet

CONFIRMATION NO. 5783

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/501,260	08/09/2006 RULE	005	3673	4230-141

APPLICANTS

Isamu Tatsuno, Osaka, JAPAN;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS *********************

JAPAN 2005-233764 08/11/2005
JAPAN 2006-214135 08/07/2006

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	JAPAN	22	29	12

35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance

Verified and Acknowledged _____ Examiner's Signature Initials

ADDRESS

23448

TITLE

Mat, pillow and sleeping bag connectable to the mat, and bedding including all connected to each other

FILING FEE RECEIVED	FEES: Authority has been given in Paper	
2025	No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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

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OCT 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,659,449
Issue Date: February 9, 2010
Application No. 11/501,283
Filed: August 8, 2006
Attorney Docket No. DAIRY88.02AUS

DECISION ON PETITION

This is a decision on the Request Under 37 CFR 3.81(b), filed September 10, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to identify –Vialactia Biosciences (NZ) Limited-- as the correct assignee to the Title Page of the Patent via a Certificate of Correction.

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

Petitioner requests that the present Petition was submitted to identify –Vialactia Biosciences (NZ) Limited-- on the previously submitted PTOL-85B and that such error to be corrected was inadvertent.

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.

U.S. Patent and Trademark Office assignments records disclose that an assignment *Vialactia Biosciences (NZ) Limited* was submitted for recordation on August 20, 2010. Therefore, the recorded assignment was **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certification of correction would not be proper.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CHRISTIE, PARKER & HALE, LLP
PO BOX 29001
Glendale, CA 91209-9001

MAILED
MAR 14 2012
OFFICE OF PETITIONS

In re Patent of Yi-Cheh Chen :
Patent No. 7,818,658 :
Issue Date: October 19, 2010 : Decision on Petition
Application No. 11/501,285 :
Filing Date: August 8, 2006 :
Attorney Docket No. 58208/C1024 :

This is a decision on the petition under 37 C.F.R. § 1.78(a)(6) filed January 30, 2002.

The petition is **dismissed**.

The first sentence of the specification states the instant application "claims the benefit of" Application No. 10/746,130, which claims the benefit of Application No. 60/528,343.

The Priority Claim Based on Application No. 10/746,130 is Improper.

The specification does not identify a relationship between the non-provisional applications. Therefore, the priority claim based on Application No. 10/746,130 is improper.

The Priority Claim Based on Application No. 60/528,343 is Improper.

The instant application claims the benefit of Application No. 60/528,343 via intermediate Application No. 10/746,130, and as previously stated, the priority claim based on Application No. 10/746,130 is improper. Therefore, the priority claim based on Application No. 60/528,343 is improper.

The Priority Claim Based on Application No. 10/746,130 may be Corrected Via the Issuance of a Certificate of Correction.

MPEP § 1481.03(II)(B) states,

> Under certain conditions as specified below, however, a Certificate of Correction can still be used, with respect to 35 U.S.C. 120 priority, to correct:
>
> (A) the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2); or

(B) an incorrect reference to a prior copending application pursuant to 37 CFR 1.78(a)(2).

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

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

The requirements to correct the priority claim based on Application No. 10/746,130 via the issuance of a certificate of correction amending the reference to the prior application have been satisfied.

The Priority Claim Based on Application No. 60/528,343 may NOT be Corrected Via the Issuance of a Certificate of Correction.

MPEP 1481.03(II)(B) states, with emphasis added,

> Under no circumstances can a Certificate of Correction be employed to correct an applicant's mistake by adding *or correcting* a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000.
>
> Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119(e)(1) to state that:
>
> > No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section *during the pendency of the application.* (emphasis added)
>
> A Certificate of Correction is NOT a valid mechanism for adding *or correcting* a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000.

In view of the quoted language set forth above, a party may not use a certificate of correction to obtain the benefit of a provisional application. Therefore, the issuance of a certificate of correction in this case indicating the patent is entitled to the benefit of the provisional application would be improper.

Fees

Where a claim for priority under 37 C.F.R. § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application. *See* MPEP 201.11(III)(D). In the present case, the Office noted the claims for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt. Therefore, a petition under 37 CFR 1.78(a) is unnecessary and the petition fee has been credited back to Deposit Account No. 03-1728.

Conclusion

The request for relief under 37 C.F.R. § 1.78 in order to indicate the application is entitled to the benefit of Application No. 60/528,343 is dismissed because a certificate of correction may not be used to correct a priority claim based on a provisional application.

The request for relief under 37 C.F.R. § 1.78 in order to correct the priority claim based on Application No. 10/746,130 is dismissed as moot because such relief is unnecessary to correct the priority information via the issuance of a certificate of correction.

The Certificates of Correction Branch will be informed of the instant decision and issue a certificate of correction which:

1. Includes the requested addition of language to the title page indicating the patent is a continuation of Application No. 10/746,130;

2. Does not include the requested addition of language to the title page referring to Application No. 60/528,343;

3. Does not include the requested change to the specification;[1] and

4. Includes the requested changes to the claims to the extent the Certificates of Correction Branch determines such changes are proper.

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] The requested change to the specification is unnecessary and could mislead parties reviewing the matter to believe the patent is entitled to the benefit of the provisional 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

CHARLES L. HENDERSON
1340 SEAN WAY
MARIETTA GA 30066

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Application of :
Charles L. Henderson :
Application No. 11/501,333 : DECISION ON PETITION
Filed: April 12, 2007 :
Attorney Docket No. :

This is a decision on the petition filed August 16, 2010, in the above-identified application.

The petition is DISMISSED.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

For petitioner's convenience enclosed with this decision is a blank copy of the petition for revival of an application for patent abandoned unintentionally (PTO/SB/64). Petitioner is encouraged to use these forms.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

By mail: Mail Stop 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) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

Enclosure: Blank Petition for Revival of an Application for Patent Abanonded Unintentionally Under 37 CFR 1.137(b) (PTO/SB/64) form

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES L. HENDERSON
1340 SEAN WAY
MARIETTA GA 30066

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Application of :
Charles L. Henderson :
Application No. 11/501,333 : DECISION ON PETITION
Filed: April 12, 2007 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2011, to revive the above-identified application.

The petition is hereby **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 18, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 19, 2009.

An applicant cannot Request Continued Examination (RCE) of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)). *See 37 CFR 1.114(a).* Therefore, since the RCE has been prematurely filed it is deemed to be improper response and will not be entered. However, as the reply captioned as "CLAIMS" included therewith will be considered as the response to the non-final Office action of August 16, 2010. Accordingly, petitioner may request for a $405 refund for the RCE filing 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.

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

As stated in the previous decision of January 3, 2011, petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

This application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business.

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

Baker & Daniels LLP-Polaris
300 N. Meridian Street
Suite 2700
Indianapolis IN 46204

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of :
Lyle Jay DAHLGREN et al. : DECISION GRANTING STATUS
Application No. 11/501,457 : UNDER 37 CFR 1.47(a)
Filed: August 9, 2006 :
Attorney Docket No. PLR-01-1706.02P :

This is in response to the petition under 37 CFR 1.47(a), filed November 30, 2006.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Guy L. Sibilleau 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(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Patent Application Processing.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GUY L. SIBILLEAU
26317 370TH AVENUE
ROSEAU, MN 56751-8532

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of
Lyle Jay Dahlgreen, et al.
Application No. 11/501,457
Filed: August 9, 2006
For: WATERMARKS FOR REQUESTED RESOURCES

Dear Mr. Sibilleau:

You are named as a sole inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Baker & Daniels LLP-Polaris
300 N. Meridian Street
Suite 2700
Indianapolis IN 46204

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Camille Nijs et al. :
Application No. 11/501,512 : DECISION ON PETITION
Filed: August 9, 2006 :
Attorney Docket No. CM2990MQ :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 6, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 7, 2009. A Notice of Abandonment was mailed October 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3761 for appropriate action by the Examiner in the normal course of business on the reply received December 15, 2010.

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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JOHN E. GUNTHER, ESQ.
RAYTHEON COMPANY, EO/E04/N119
2000 E. EL SEGUNDO BLVD.
P.O. BOX 902
EL SEGUNDO, CA 90245-0902

MAILED
DEC 27 2010
OFFICE OF PETITIONS

In re Application of :
Crouch et al. :
Application No. 11/501,563 : ON PETITION
Filed: August 9, 2006 :
Attorney Docket No. PD 05W231 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 24, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 25, 2010. A Notice of Abandonment was mailed May 28, 2010.

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center 2821 for further examination on the merits.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WILLIAM BENMAN
BENMAN BROWN AND WILLIAMS
2049 CENTURY PARK E STE 2740
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH J. COLLIER – C/O KATHY ILLG
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MAIL STOP LC-340
MINNEAPOLIS, MN 55432

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
William F. Kaemmerer et al :
Application No. 11/501,634 : DECISION ON PETITION
Filed: August 9, 2006 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. :
48169.00021/P0022518.03

This is a decision on the petition filed February 12, 2010, which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed 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.

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.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1635 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.

David Bucci
Petition Examiner
Office of Petitions

cc: Gerard P. Norton
Fox Rothschild LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311

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
11/501,634	08/09/2006	1635	2940	48169.00021/P0022518.03	39	1

CONFIRMATION NO. 6977

CORRECTED FILING RECEIPT

80788
Kenneth J. Collier - c/o Kathy Illg
Medtronic, Inc.
710 Medtronic Parkway NE
Mail Stop LC-340
Minneapolis, MN 55432

Date Mailed: 09/10/2010

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)

William F. Kaemmerer, Edina, MN;
Michael D. Kaytor, Maplewood, MN;

Power of Attorney: The patent practitioners associated with Customer Number 80788

Domestic Priority data as claimed by applicant

This application is a CIP of 11/429,491 05/04/2006 ABN
which claims benefit of 60/678,729 05/06/2005

Foreign Applications

If Required, Foreign Filing License Granted: 09/20/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/501,634**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and sequences to suppress primate huntington gene expression in vivo

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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.
11/501,729	08/10/2006	Hideo Ando	293914US2S DIV	7100

22850 7590 06/09/2011

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

EXAMINER	
NGUYEN, HUY THANH	

ART UNIT	PAPER NUMBER
2481	

NOTIFICATION DATE	DELIVERY MODE
06/09/2011	ELECTRONIC

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 08 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of:
HIDEO ANDO, et al.
Application No. 11/501,729
Filed: August 10, 2006
For: INFORMATION RECORDING METHOD, INFORMATION RECORDING MEDIUM, AND INFORMATION REPRODUCING METHOD, WHEREIN INFORMATION IS STORED ON A DATA RECORDING PORTION AND A MANAGEMENT INFORMATION RECORDING PORTION

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

This is a decision on the petition filed on April 26, 2011 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider Document (AW) listed on the Form PTO-1449s filed with the Information Disclosure Statements (IDSs) on August 10, 2006.

The petition is **GRANTED**.

BACKGROUND

A Notice of Allowance was mailed on November 1, 2006 stating that the IDSs filed on the dates stated failed to comply with provisions of 37 CFR § 1.98 and MPEP § 609 because no reference date was provided.

A petition was filed by the applicant on April 26, 2011 requesting the Document (AW) listed on Form-1449 filed with the IDSs be considered. The petition stated that the Document (AW) was considered in the parent application 10/195,789, now US patent 7,362,953, and the first page of the Document shows that the date of submission is June 20, 2002.

OPINION

The August 10, 2006 IDS was filed under 37 CFR 1.97 and does meet the requirements of both rules 1.97 and 1.98, so consideration by the examiner is warranted.

In light of the above regulations, the petition filed on April 26, 2011 is **GRANTED**.

The application will be forwarded to the examiner for consideration of the Document (AW) listed on the Form PTO-1449 filed with the IDSs on August 10, 2006.

Any inquiry concerning this decision should be directed to Chau Nguyen at (571) 272-3126.

/Chau Nguyen/

Chau Nguyen
WorkGroup QAS
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,821,013 :
Issue Date: October 26, 2010 :
Application No. 11/501,777 : DECISION ON PETITION
Filed: August 10, 2006 :
Attorney Docket No. 01-718-DIV :

This is a decision on the petition filed October 11, 2011, under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The petition fee of $400 under the provisions of 37 CFR 1.182 has been paid.

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

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person at (703) 756-1555 in the Office of Data Management.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell, Randolph Square, 9th Floor, Room D33 (Fax No. (571) 270-9958)

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

MAILED

APR 10 2012

OFFICE OF PETITIONS

In re Application of Harada et al. :
Application No. 11/501,820 : Decision on Petition
Filing Date: August 10, 2006 :
Attorney Docket No. 1614.1598 :

This is a decision on the petition under 37 CFR 1.181 filed February 22, 2012, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on April 12, 2011, which set a three (3) month shortened statutory period for reply.

The Office did not receive a reply to the Office action. As a result, the Office mailed a Notice of Abandonment on January 31, 2012.

The instant petition was filed February 22, 2012. The petition asserts the non-final Office was not received.

The Office has reviewed the record and determined the record is sufficient to demonstrate non-receipt of the Office action. Therefore, the holding of abandonment is hereby withdrawn.

Technology Center Art Unit 2618 will be informed of the instant decision and the technology center will re-mail the April 12, 2011 Office action. The time period to reply to the new Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON MA 01748

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Patent No. 7,737,915 :
Issued June 15, 2010 :
Application No. 11/502,017 : ON PETITION
Filed: August 10, 2006 :
Attorney Docket Number: 1003-053 :

This is a decision on the petition filed on January 11, 2011, to correct the assignee's information on the front of the Patent.

The petition is **DISMISSED**.

Petitioner seeks to delete the assignee information provided on the Fee(s) Transmittal, form PTOL-85(b) at the time the issue fee was paid, from the face of the patent.

Petitioner is advised that while a certificate of correction, and fee, has been provided, the correction to assignee information cannot be corrected without a petition under 1.183 waiving the requirements under 37 CFR 3.81,(b)[1].

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 therefore is not grantable.

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[1] *See* Official Gazette of June 22, 2004

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON MA 01748

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,737,915 :
Issued June 15, 2010 :
Application No. 11/502,017 : ON PETITION
Filed: August 10, 2006 :
Attorney Docket Number: 1003-053 :

This is a decision on the petition, filed May 6, 2011, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

The petition claims that assignment data was included in the PTOL-85B filed April 29, 2010 when in fact no assignment should have been supplied as the present application remained unassigned at the time. Accordingly, petitioner requests that a certificate of correction be issued to remove the assignment information on the front page of the Letters Patent.

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

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

Office assignment records reflect that at the time the issue fee was paid, there was no assignment recorded. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

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[1] *See* Official Gazette of June 22, 2004

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100.00 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20110209

DATE : 12-18-10

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/502086 Patent No.: 7526386

CofC mailroom date: 11-30-10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

Angela Green

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2857

Art Unit

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MAILED
MAR 15 2011
OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

In re Patent of Zhao, et al. :
Patent No. 7,897,647 :
Issue Date: March 1, 2011 :
Application No. 11/502,108 :
Filed: August 9, 2006 :
Docket No. 213.1145-CON :

DECISION ON REQUEST
FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT

This is a decision on the petition filed on January 17, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-eight (538) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-eight (538) days is **dismissed**.

The present petition was filed prior to the issue date of March 1, 2011. It raises issues under 37 CFR 1.705(b) and discusses the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). Because the patent issued on March 1, 2011, the petition will be treated under 37 CFR 1.705(d).

Patentees assert the Office failed to enter a one (1) day period of adjustment in connection with the mailing of a Notice of Allowance on October 19, 2010. However, the mailing of the Notice of Allowance occurred within four months of the filing of the July 26, 2010 response after non-final Office action. Therefore, no delay pursuant to 37 CFR 1.702(a)(2) is warranted in connection with the mailing of a Notice of Allowance on October 19, 2010.

Patentees calculated the B delay period as 435 days, measuring from August 9, 2009 to October 19, 2010, the mail date of the Notice of Allowance. The B delay period begins on August 10, 2009, which is one day after three years after the filing of the application on August 9, 2006, and ends on March 1, 2011, when the patent issued, and is 569 days.

In light thereof, the correct patent term adjustment remains 671 days, which is the sum of 359 days of delay under 35 U.S.C. 154(b)(1)(A) and 569 days of B Delay, reduced by 257 day for Applicant delay.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of :
Zhu et al. :
Application No. 11/502,116 : ON APPLICATION FOR
Filed: 08/10/2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. IM06130US01 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b) filed December 17, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 638 days, not 447 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 16 2010

OFFICE OF PETITIONS

CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST.PAUL MN 55120

In re Application of :
Craig Blonigen et al :
Application No. 11/502,161 : DECISION ON PETITION
Filed: August 10, 2006 :
Attorney Docket No. LWRY.002PA :

This is a decision on the petition, filed May 21, 2010 under 37 CFR 1.137(a), 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 nonfinal Office action mailed September 3, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 14, 2010.

Petitioner asserts that the Office action dated September 3, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of September 3, 2009. In this regard, petitioner states that the customer number for the above application was filed with the correct customer number 40581. Petitioner further states that the address for customer number 40581 was changed (via an online change) on February 18, 2008, to Crawford Maunu PLLC, 1150 Northland Drive, Suite 100, Saint Paul, MN 55120, prior to the mailing of the Office action on September 3, 2009. However, the Office action was mailed to an incorrect address. Evidence was provided to indicate the above. A paper request for a change of correspondence address was filed on April 8, 2010.

In view of the above, the Notice of Abandonment mailed on April 14, 2010, is hereby vacated and the holding of abandonment withdrawn.

Further, the request for refund of the petition fee ($270.00) paid on May 21, 2010, is being credited to petitioner's deposit account as authorized.

This application is being referred to Technology Center AU 2887 for appropriate action by the Examiner in the normal course of business on the reply received May 21, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MANUEL F. DE LA CERRA
6885 CATAMARAN DRIVE
CARLSBAD, CA 92011

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Pierce et al.	:	DECISION ON PETITION
Application No. 11/502,169	:	TO WITHDRAW
Filed: August 10, 2006	:	FROM RECORD
Attorney Docket No. 71730-350337	:	

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 15, 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 Manuel de la Cerra, on behalf of all the practitioners of record associated with Customer No 62912.

Customer No 62912 has been withdrawn as from record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There application is currently abandoned for failure to respond to the Office action mailed February 22, 2010.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: SPARE BACKUP, INC.
72-757 FRED WARING DRIVE
PALM BEACH, CA 92260

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
11/502,169	08/10/2006	Jason Pierce	71730-350337

CONFIRMATION NO. 8920

POWER OF ATTORNEY NOTICE

62912
MANUEL F. DE LA CERRA
6885 CATAMARAN DRIVE
CARLSBAD, CA 92011

Date Mailed: 09/20/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/15/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/atkelley/

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

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Kathy Manke
Avago Technologies Limited
4380 Ziegler Road
Fort Collins CO 80525

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,715,699 :
Issue Date: May 11, 2010 :
Application No. 11/502,276 : DECISION ON PETITION
Filed: August 10, 2006 :
Attorney Docket No. 10060280-01 :

This is a decision on the Request For Certificate Of Correction, filed May 28, 2010, requesting correction on the Title Page of the subject patent to identify the omitted assignee's name. A completed Certificate of Correction Form (PTO/SB-44) was submitted with the petition.

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

Petitioner urges that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignees' names omitted on the previously submitted PTOL-85B. In effect, Petitioner requests that the assignee information identified on the Title Patent of the patent be changed and listed in order to:

-1. Avago Technologies Wireless IP (Singapore) Pte. Ltd., Singapore (SG)
2. The Boards of Trustees of the Leland Stanford Junior University, 1705 El Camino Real, Palo Alto, California 94306-1106-

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.

However, 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(h) were accompanied deposit account authorization to charge any required fees. As such, the fees have been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, as the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form PTO/SB/44 submitted with the present petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,715,699.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110302

DATE : March 02, 2011

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,722,543

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:

/Charles A Marmor, II/
Supervisory Patent Examiner.Art Unit 3735

OK TO ENTER: /C.M./

PTO/SB/44 (07-07)
Approved for use through 07/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,722,543
APPLICATION NO.	:	11/502,394
ISSUE DATE	:	May 25, 2010
INVENTOR(S)	:	Hiroshi KISHIMOTO et al.

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

On the cover page:

Under Section (56) U.S. PATENT DOCUMENTS, please add:

--2004/0010198 A1 1/2004 Yamakoshi et al.--

Under Section (56) FOREIGN PATENT DOCUMENTS, please add:

--EP 1 752 090 2/2007--

Under Section (56) OTHER PUBLICATIONS, please add:

--Russian Office Action dated December 18, 2007, directed to counterpart Russian Application No. 2006129230/14; 18 pages--

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Adam Keser
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 400
McLean, Virginia 22102

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,900,567	:	DECISION ON REQUEST
Haaga et al.	:	FOR
Application Number: 11/502,441	:	RECONSIDERATION OF
Issue Date: 03/08/2011	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/11/2006	:	
Atty Docket No.	:	
43289-233709	:	

This is a decision on the petition filed on March 15, 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 revised to indicate that the term of the above-identified patent is extended or adjusted by 337 days from 573 days to 910 days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 573 days.

Patentees state that the period under 37 CFR 1.702(a) should be 427 days rather than 498 days, based on the fourteen month period beginning on December 25, 2007, fourteen months after the date the application completed the requirements of 35 USC 371, and ending on February 20, 2009, the date a notice of allowance was mailed.

A review of the record reveals that the application was filed under 35 USC 111(a), not 35 USC 371. On August 11, 2006, the application was filed. On February 20, 2009, fourteen months and 498 days after the day after the date the application was filed, an Office action was mailed. Accordingly, the delay under 37 CFR 1.702(a) is 498 days.

As to the "B" delay, the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 12, 2009, and ends on January 26, 2010, the day before the RCE was filed, and is 168 days. See 35 U.S.C. 154(b)(1)(B)(i).

It is noted that patentee asserts that the reduction for applicant delay is 91 days, rather than 93 days as indicated in the Office PAIR record. While patentee has provided no basis for the asserted determination of 91 days as opposed to the 93 days previously determined by the Office, it is noted that a reply was filed on May 24, 2010, three months and 2 days after the mailing of the Office action mailed on February 22, 2010.

37 CFR 1.704(b) states that

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. **The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.**
>
> (emphasis added)

Accordingly, the Office will use the reduction for applicant delay of 93 days in calculating the patent term adjustment.

Accordingly, no change will be made to the patent term adjustment of 573 days (498 days Office delay + 168 days three years delay – 0 overlapping days - 93 days of applicant delay) as set forth on the face of the patent issued patent.

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 30 2011

OFFICE OF PETITIONS

Maginot, Moore & Beck
Chase Tower
Suite 3250
111 Monument Circle
Indianapolis IN 46204

In re Application of :
Gary L. COX et al. : ON PETITION
Application No. 11/502,637 :
Filed: August 10, 2006 :
Atty. Docket No.: 1502-0071

This is in response to the petition under 37 CFR 1.137(b), filed August 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 2, 2008 (outstanding Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned March 3, 2009. A Notice of Abandonment was mailed June 30, 2009.

The petition satisfies the conditions for revival under 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, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

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

The file will be referred to Technology Center Art Unit 3677 for consideration of the filed Response.

Rajnesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

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

SYNTHETIC GENOMICS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130

MAILED

MAY 27 2011

OFFICE OF PETITIONS

In re Application of	:	
YOUNG, LEI et al.	:	
Application No. 11/502,746	:	DECISION ON PETITION
Filed: August 11, 2006	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 03, 2010.

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

A review of the file record indicates that a change of address was filed on September 30, 2010 and has been processed. 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 571-272-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SYNTHETIC GENOMICS, INC.**
C/O DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

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RIZWAN AHMAD
1671 RUE SAINT DEVI
MONTREAL QC H2X 3K4 CA CANADA

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Rizwan Ahmad	:	
Application No. 11/502,769	:	DECISION ON PETITION
Filed: August 14, 2006	:	
Attorney Docket No. None	:	

This is a decision on the renewed petition, filed July 26, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Final Office action mailed May 11, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 22, 2009.

Petitioner requests a reconsideration of the decision mailed June 30, 2010 on the petition, filed January 14, 2010. Consequently, as no new evidence has been set forth, the request to withdraw of the holding of abandonment in the above-identified application still cannot be granted.

Petitioner is reminded that a request for an interview is not considered a proper reply to an Office action. Therefore, petitioner's attention is again directed to 37 CFR 1.135.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), $810.00 for a small entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

By Internet: EFS-Web[1]

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/29/10 Paper No.: —

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/502787 Patent No.: 7615359B2

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: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/29/10 Paper No.: —

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/502787 Patent No.: 7615359B2

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: All typographical errors occurred through the fault of PTO. All corrections do not affect the scope of the claims and would not constitute new matter.

Patt

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Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of Solomon et al. :
Application No. 11/502,789 : On Application For
Filing Date: August 10, 2006 : Patent Term Adjustment
Attorney Docket No. 20712-516 :

This is in response to the "Application for Adjustment of Patent Term Under 37 C.F.R. § 1.705(b)" filed April 30, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is nine hundred thirteen (913) days, not six hundred ninety-nine (699) days 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.

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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
New York, NY 10104-3800

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Terrance Kaiserman, et al.	:	
Application No. 11/502,812	:	DECISION ON PETITION
Filed: August 11, 2006	:	TO WITHDRAW
Attorney Docket No. 03875.002200	:	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 23, 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 Douglas Sharrott 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.

There is an outstanding Office action mailed April 23, 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
Petitions Examiner
Office of Petitions

cc: **T-Ink, LLC**
244 West 54th Street
New York, NY 10019

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
11/502,812	08/11/2006	Terrance Kaiserman	03875.002200

CONFIRMATION NO. 1907

POWER OF ATTORNEY NOTICE

5514
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

OC00000043167953

Date Mailed: 08/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/23/2010.

- 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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YAHOO! INC.
C/O OSTROW, KAUFMAN & FRANKL, LLP
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE, 62ND FLOOR
NEW YORK, NY 10174

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of
Narayanan Sadagopan, et al.
Application No. 11/502,869
Filed: August 10, 2006
Attorney Docket No. 600189-434

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 2, 2010, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notice of Abandonment mailed July 19, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-compliant Amendment (Notice), mailed December 16, 2009 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 17, 2010.

Petitioner asserts the Notice of Abandonment mailed July 19, 2010 be withdrawn as petitioner never received the Notice of Non-compliant Amendment (Notice), mailed December 16, 2009.

To support this assertion petitioner has submitted: (1) a statement from petitioner stating that the Office communication was not received by the inventor and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the Notice of Non-compliant Amendment (Notice), mailed December 16, 2009.

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

This application is being referred to Technology Center AU 2176 for appropriate action by the Examiner in the normal course of business on the reply received August 2, 2010.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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

MAILED

JAN 27 2011

PCT LEGAL ADMINISTRATION

In re Application of
SELLIER
Application No.: 11/502,898
Filing Date: August 10, 2006
Attorney Docket No.: Q114882

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed November 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 35 U.S.C. 119 for the benefit of priority to the prior-filed international application and foreign application set forth in the supplemental application data sheet filed concurrently with the instant petitions.

The petitions are **DISMISSED**.

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

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

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

The petition does not satisfy item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." See MPEP Section 201.11, Rev. 5, August 2006, Reference to Prior Application(s). The supplemental application data sheet fails to properly state the relationship of international application PCT/FR2005/000292 to the instant application. It is noted that the present application is not a national stage application filed under 35 U.S.C. 371.

Applicant is further advised that the supplemental application data sheet lacks a proper signature. See 37 CFR 1.33(b). The submission of a supplemental ADS with another signed document does not satisfy the signature requirement. Applicant may wish to refer to the most recent version of Form PTO/SB/14, which can be obtained at http://www.uspto.gov/ebc/portal/efs/sb0014_fill.pdf and which contains an appropriate signature box.

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either a supplemental application data sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

II. Petition under 37 CFR 1.55(c)

The present nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(2) the surcharge as set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional.)

The instant petition fails to comply with item (1) above. As stated above, the supplemental application data sheet lacks a proper signature.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76 must be satisfied if applicant desires to claim priority to the foreign application noted in the petition.

Applicant is advised that a certified copy of the foreign priority application along with any required processing fee under 37 CFR 1.17(i) must be filed before a patent is granted on the present application. 37 CFR 1.55(a)(2). If the certified copy has been filed in a parent or related application, applicant need only identify the application containing the certified copy. MPEP 201.14(b), Section II. Later Filed Applications, Reissues.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

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WASHINGTON, DC 20037

MAILED

MAY 02 2011

PCT LEGAL ADMINISTRATION

In re Application of
SELLIER
Application No.: 11/502,898
Filing Date: August 10, 2006
Attorney Docket No.: Q114882

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed February 26, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 35 U.S.C. 119 for the benefit of priority to the prior-filed international application and foreign application set forth in the supplemental application data sheet filed concurrently with the instant petitions.

The petitions are **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed 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 any Filing Receipt includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon.

II. Petition under 37 CFR 1.55(c)

The present application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application claims the benefit of a U.S. nonprovisional application which was filed within 12 months of February 11, 2004 (the filing

date of the foreign application to which benefit is now being claimed). An application data sheet has been filed which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee has been furnished. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is granted.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

ATTACHMENT : corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1000
IRVINE, CA 92614-6232

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of
Reza Sadri, et al.
Application No. 11/502,988
Filed: August 11, 2006
Attorney Docket No.: 101944.0001US1

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 8, 2008. A Notice of Abandonment was mailed on February 2, 2009. On June 21, 2010, the present petition was filed, including a Request for Continued Examination (RCE) under 37 CFR 1.114. The filing of a RCE is not permissible unless prosecution in the application is closed. Accordingly, the improper RCE will not be accepted and the RCE filing fee will be credited to counsel's deposit account.

Nonetheless, the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the amendment; (2) the petition fee of $8100; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2169 for consideration of the amendment filed June 21, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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.
11/503,096	08/11/2006	Albrecht Moritz	CST-215	9967

7590 04/08/2011

Nancy Chiu Wilker, Ph.D.
Chief Intellectual Property Counsel
CELL SIGNALING TECHNOLOGY, INC.
3 Trask Lane
Danvers, MA 01923

EXAMINER	
GODDARD, LAURA B	
ART UNIT	**PAPER NUMBER**
1642	
MAIL DATE	**DELIVERY MODE**
04/08/2011	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 8, 2011

Nancy Chiu Wilker, Ph.D.
Chief Intellectual Property Counsel
CELL SIGNALING TECHNOLOGY, INC.
3 Trask Lane
Danvers MA 01923

In re Application of	:	
Albrecht Moritz et al.	:	**DECISION ON PETITION**
Application No. 11503096	:	
Filed: 8/11/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. CST-215	:	***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) August 11, 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

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RAYTHEON COMPANY
EO/E04/N119, PO BOX 902
2000 EAST EL SEGUNDO BOULEVARD
EL SEGUNDO CA 90245-0902

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of :
Mitchell :
Application No. 11/503,227 : DECISION
Filed/Deposited: 11 August, 2006 :
Attorney Docket No. 05W202 :

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.

NOTE:

Petitioner is cautioned that a technical problem prevented the Office of Petitions from entering the change of address at the time this matter was considered—therefore, Petitioner is respectfully requested to resubmit his request in order that it may be attended by the Technology Center.

A courtesy copy of this petition is being forwarded to the address on the petition, however, Petitioner is reminded to resubmit the request for Change of Correspondence Address.

The record (including the petition filed on 16 February, 2011) does not necessitate a finding that the delay between midnight 12 February, 2010 (the date of abandonment), and 16 February, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel William J. Benman (Reg. No. 29,014), when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Application No. 11/503,227

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the final Office action mailed on 12 November, 2009, with reply due absent extension of time on or before 12 February, 2010.

The application went abandoned by operation of law after midnight 12 February, 2010.

The Office mailed the Notice of Abandonment on 30 September, 2010.

On 16 February, 2011, more than one (1) year from the date of abandonment and nearly five (5) months after the mailing of Notice thereof, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of a Notice of Appeal and fee, and made the statement of unintentional delay.

As noted above, the record (including the petition filed on 16 February, 2011) does not necessitate a finding that the delay between midnight 12 February, 2010 (the date of abandonment), and 16 February, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel William J. Benman (Reg. No. 29,014), when accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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 AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[5]))

As to Allegations of Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

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

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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 1795 to await the required submission of Petitioner's Appeal Brief and fee in due course and **within two (2) months** of the mail date of this decision. Extensions of time are available pursuant to 37 C.F.R. §1.136.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC:
WILLIAM J. BENMAN
2049 CENTURY PARK EAST/STE. 2740
LOS ANGELES, CA 90067

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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THEODORE J BIELEN JR
BIELEN LAMPE, & THOEMING
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD CA 94520

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Theodore R. Bristow, Jr. :
Application No. 11/503,252 : ON PETITION
Filed: August 11, 2006 :
Attorney Docket No. 14945 :

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed August 23, 2010.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed January 2, 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 April 3, 2008. The Office mailed a Notice of Abandonment on July 16, 2008. Applicant filed a petition to revive under 37 CFR 1.137(b) on April 19, 2010. However, the petition was dismissed in a decision mailed on June 22, 2010. The decision pointed out that because the application had been abandoned for an extended period of time, applicant needed to explain the delay in filing the petition.

With the instant renewed petition, petitioner has provided a satisfactory explanation. The other requirements for a grantable petition were previously satisfied with the earlier filed petition.

The application is being forwarded to Group Art Unit 2834 for consideration of the Amendment, filed April 19, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55440-1022

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SEP 28 2010

OFFICE OF PETITIONS

In re Application of :
Jang, et al. :
Application No. 11/503,309 : DECISION ON PETITION
Filed: 11 August, 2006 :
Attorney Docket No. 06155-159001 :

This is a decision on the petition filed on 13 August, 2010, requesting pursuant to 37 C.F.R §1.182 that the acceptance of the terminal disclaimer filed 26 December, 2007, be withdrawn

NOTE:

It appears that Petitioner has submitted an insufficient fee for the instant matter.

Petitioner is cautioned to consult the appropriate regulations (at 37 C.F.R §1.182) for the specification of the appropriate fee (pursuant to 37 C.F.R §1.17(f)), and thereafter the Office current fee schedule. (See: http://www.uspto.gov/)

Petitioner may consult this resource to ensure that representations to the Office are complete and current.[1]

The Office has charged the proper fee to Deposit Account 06-1050, as previously authorized.

The petition pursuant to 37 C.F.R §1.182 is **GRANTED**.

Petitioner asserts that, amendments made in this application obviate the necessity for the terminal disclaimer filed in the instant application on 26 December, 2007.

[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.

It is noted that the Examiner(s) in charge of this application has concurred with the request.

The guidance in the Commentary at MPP §1490 provides in pertinent part:

***

VII. WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy 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. *>Because< 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).

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR 1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR 1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)

***

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.[2]

Accordingly, the petition is **granted** and the terminal disclaimer is withdrawn.

This application is released to the Technology Center/AU 2853 for further processing in due course.

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[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/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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JAN 04 2011

OFFICE OF PETITIONS

MERCK
C/O DNAX
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO CA 94304

In re Application of :
Oppmann, et al. : DECISION ON APPLICATION
Application No. 11/503,324 : FOR
Filed: August 10, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. **DX01042XB2** :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT UNDER 37 C.F.R. § 1.705(b)," filed December 17, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred nineteen (419) days to four hundred and ninety-three (493) days.

The application for patent term adjustment is **GRANTED.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **four hundred and ninety-three (493) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 24, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred and nineteen (419) days. On December 17, 2010, applicants timely submitted the instant application for patent term adjustment[1].

Applicants dispute the reduction of seventy-four (74) days for filing of a terminal disclaimer on September 10, 2010, seventy-

[1] The Office records show applicants paid the issue fee on December 17, 2010.

four days after a reply had been filed. See 37 C.F.R. § 1.704(c)(8)[2]. Applicants contend that they submitted the terminal disclaimer at the request of the examiner.

Applicants' contention is well taken. The record supports a conclusion that the terminal disclaimer filed September 10, 2010, was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the reduction of 74 days is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **four hundred and ninety-three (493) days.**

Deposit account 04-1239 will be charged $200.00 for the fee set forth in 37 C.F.R. § 1.18(e). No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Telephone inquiries regarding this matter should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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[2] 37 CFR § 1.704(c)(8) states:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

Enclosure: Copy of REVISED PALM screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11503324 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11503324

Application Filing Date	08/10/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	758
A Delays	758	PTO Manual Adjustment	74
B Delays	0	Applicant Delay (APPL)	339
C Delays	0	Total PTA (days)	493

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
70	12/29/2010		P028	Adjustment of PTA Calculation by PTO	74	0	
58	09/24/2010		MN/=.	Mail Notice of Allowance		0	
57	09/22/2010		IREV	Issue Revision Completed		0	
56	09/22/2010		DVER	Document Verification		0	
55	09/22/2010		N/=.	Notice of Allowance Data Verification Completed		0	
54	09/22/2010		DOCK	Case Docketed to Examiner in GAU		0	
53	09/13/2010		EX.A	Examiner's Amendment Communication		0	
52	09/13/2010		CNTA	Notice of Allowability		0	
50	09/10/2010	06/28/2010	DIST	Terminal Disclaimer Filed		74	44
49	09/09/2010		P575	Paralegal TD Not accepted		0	
48	09/09/2010		DIST	Terminal Disclaimer Filed		0	
51	09/01/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
45	06/30/2010		FWDX	Date Forwarded to Examiner		0	
44	06/28/2010		A...	Response after Non-Final Action		0	
43	04/06/2010		ELC_RVW	Electronic Review		0	
42	03/30/2010		EML_NTF	Email Notification		0	
41	03/30/2010	08/24/2009	MCTNF	Mail Non-Final Rejection	218	24	
40	03/25/2010		CTNF	Non-Final Rejection		0	
34	03/09/2010		DOCK	Case Docketed to Examiner in GAU		0	
33	03/03/2010		DOCK	Case Docketed to Examiner in GAU		0	
38	01/14/2010		IDSC	Information Disclosure Statement considered		0	
35	01/14/2010		IDSC	Information Disclosure Statement considered		0	
32	01/14/2010	04/24/2009	M844	Information Disclosure Statement (IDS) Filed		265	24
31	01/14/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
30	01/14/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
39	09/23/2009		IDSC	Information Disclosure Statement considered		0	
36	09/23/2009		IDSC	Information Disclosure Statement considered		0	
29	09/23/2009		RCAP	Reference capture on IDS		0	
28	09/23/2009		M844	Information Disclosure Statement (IDS) Filed		0	
27	09/23/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
26	09/23/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
25	05/21/2009		FWDX	Date Forwarded to Examiner		0	
24	04/24/2009		ELC.	Response to Election / Restriction Filed		0	
23	04/02/2009	10/10/2007	MCTRS	Mail Restriction Requirement	540	-1	
22	03/30/2009		CTRS	Requirement for Restriction / Election		0	
20	03/15/2007		PG-ISSUE	PG-Pub Issue Notification		0	
21	03/08/2007		A.PE	Preliminary Amendment		0	
16	02/02/2007		DOCK	Case Docketed to Examiner in GAU		0	
37	01/23/2007		IDSC	Information Disclosure Statement considered		0	
19.7	01/23/2007		EIDS.	Electronic Information Disclosure Statement		0	
19	01/23/2007		WIDS	Information Disclosure Statement (IDS) Filed		0	
15	01/20/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
12	12/01/2006		OIPE	Application Dispatched from OIPE		0	
11	12/01/2006		COMP	Application Is Now Complete		0	
14	11/28/2006		A.PE	Preliminary Amendment		0	
10	11/28/2006		ADDFLFEE	Additional Application Filing Fees		0	
9	11/28/2006		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in		0	
8	08/28/2006		SQPR	SEQUENCE ERRORS		0	
5	08/22/2006		L128	Cleared by L&R (LARS)		0	
4	08/22/2006		L198	Referred to Level 2 (LARS) by OIPE CSR		0	
3	08/18/2006		CRFE	CRF Is Good Technically / Entered into Database		0	
2	08/18/2006		SCAN	IFW Scan & PACR Auto Security Review		0	
13	08/10/2006		A.PE	Preliminary Amendment		0	
6	08/10/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT		0	
1	08/10/2006		IEXX	Initial Exam Team nn		0	

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Masermann et al.	:	DECISION ON PETITION
Application No. 11/503,403	:	TO WITHDRAW
Filed: August 14, 2006	:	FROM RECORD
Attorney Docket No. 741439-39	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2010.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed June 9, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

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717 WEST SPRAGUE AVE., SUITE 1600
SPOKANE, WA 99201

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JUN 20 2011

OFFICE OF PETITIONS

In re Application of :
Michael C. Genova :
Application No. 11/503,421 : ON PETITION
Filed: August 11, 2006 :
Attorney Docket No. Genova 28493.004 :

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 reply in a timely manner to the Notice of Non-Compliant Amendment, mailed February 22, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 23, 2010. A Notice of Abandonment was mailed October 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center 3634 for further examination on the merits.

G. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55440

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JUN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Schongar et al.	:	
Patent Number: 7,885,204	:	DECISION ON
Issue Date: 02/08/2011	:	APPLICATION FOR
Application No. 11/503478	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/11/2006	:	
Attorney Docket Number:	:	
26310-0246001	:	

This is a decision on the petition filed on April 8, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred eighty-three (683) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred eighty-three (683) days is **DISMISSED**.

Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on October 22, 2009. This Office mailed a Notice of Allowance and Issue Fee Due on September 20, 2010. Patentees request an additional one hundred forty-two (142) 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, February 8, 2011. Patentees aver that with the mailing of the Notice of Allowance on September 20, 2010, the Office closed examination on the present application on that date. Accordingly, Patentees assert that 142 days of B Delay should have been included in the period of delay accorded the Director, and that the Patent Term Adjustment should be calculated as 683 days, instead of 541 days.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in

September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing,"

as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 12, 2009, and ends on October 21, 2009, the day before the RCE, filed October 22, 2009, was filed, and is 71 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 541 days, not 683 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.

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[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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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OFFICE OF PETITIONS

SEARETE LLC
SUITE 110
1756-114TH AVE SE
BELLEVUE WA 98004

In re Application of	:	
Hyde, et al:	:	
Application No. 11/503,489	:	ON REQUEST FOR
Filed: August 10, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 0306-002-014-000000	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 14, 2010. Applicants believe that they should be accorded an additional PTA of 132 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **three hundred twenty-two (322) days** (344 days of PTO delay, reduced by 22 (18+4) 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.

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Council Bluffs IA 51503

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SEP 21 2010

OFFICE OF PETITIONS

In re Application of :
Edward K.Y. Jung et al. :
Application No. 11/503,501 : DECISION ON PETITION
Filed: August 11, 2006 :
Attorney Docket No. **0605-002-004-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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 11, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1631 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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APR 20 2011

OFFICE OF PETITIONS

In re Application of :
Benjamin Harold Kuehmichel, et al. :
Application No. 11/503,537 :
Filed: August 10, 2006 :
Attorney Docket No. BOBJ-106/00US 304661-2217 :

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 March 11, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

Petitioner should note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, since the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office, the request cannot be granted at the present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS SA
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE, LTD
BUSINESS OBJECTS DATA INTEGRATION, INC.
ATTN: B. GALLIANI
777 6TH STREET, SUITE 1100
WASHINGTON, DC 20001

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
APR 04 2011
OFFICE OF PETITIONS

John A. Parrish
Ste. 300
Two Bala Plaza
Bala Cynwyd, PA 19004

In re Application of	:	
Wei-Chih W. CHEN et al.	:	DECISION GRANTING PETITION
Application No. 11/503,655	:	UNDER 37 CFR 1.137(b)
Filed: 14 August 2006	:	
Atty. Docket No.: SL-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 6 January 2011, to revive the above-identified application ("Application").

The petition is **GRANTED**.

The Application became abandoned for failure to timely reply to the final Office action mailed 19 April 2010 ("outstanding Office action"), which set a shortened statutory reply period of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on 20 July 2010, with notification mailed 26 October 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 an after final Response to the outstanding Office action, which has been deemed acceptable to enter, previously filed 13 September 2010, (2) a petition fee of $810.00 (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 (571-272-6051).

The application file will be referred to Office of Technology Center AU 1777 for further action on the filed Response.

/David Bucci/
Petitions Examiner
Office of Petitions

code COCX to scanning

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/27/10 Paper No.: —

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/503728 Patent No.: 7766125 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐	**Approved**	**All** changes apply.
☑	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: The request for correction of line 4, claim 2 is approved. However, the request for the correction of line 34 in claim 3 is disapproved by both the applicant rep (attorney) and the examiner subsequent to a discussion which both parties agreed upon.

Katherine Mitchell 3634

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BLDG 1, SUITE 200
2650 VALLEY VIEW LN
DALLAS TX 75234

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JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
GOVINDARAJAN, et al :
Application No. 11/503,747 : ON PETITION
Filed: August 14, 2006 :
Attorney Docket No. VN-0002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 21, 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 October 22, 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 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) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required

by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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OFFICE OF PETITIONS

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

In re Application of	:	
Yong Dai et al.	:	
Application No. 11/503,781	:	DECISION ON PETITION
Filed: August 14, 2006	:	
Attorney Docket No. 253788	:	

This is a decision on the petition filed August 6, 2010, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed January 21, 2009 be withdrawn. This decision is also in response to the petition under 37 CFR 1.182 for expedited handling of the petition to withdraw a terminal disclaimer.

The petition for expedited handling is **GRANTED**.

The petition for withdrawal of a terminal disclaimer is **DISMISSED**.

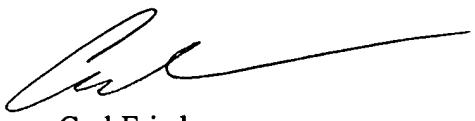
The final Office action of August 20, 2008 included a non-statutory double patenting rejection of certain claims. In response thereto, applicants filed a terminal disclaimer on January 21, 2009. Petitioner requests that the terminal disclaimer now be withdrawn since the claims as currently amended overcome the non-statutory double patenting rejection.

The examiner of record has indicated to the undersigned that at least one claim is still properly rejected under the non-statutory double patenting rejection as set forth in the final Office action. Accordingly, it would not be proper to withdraw the terminal disclaimer at this time.

The petition presents arguments as to why the double patenting rejection of record does not apply to the claims as currently amended. As noted in MPEP 1490 (VII)(A), "Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have note been favourably considered." Such arguments are properly presented to the examiner in the form of a response to the rejection.

For the reasons presented above, the petition to withdraw the terminal disclaimer is dismissed.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-6842.



Carl Friedman
Petitions Examiner
Office of Petitions

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MANELLI DENISON & SELTER PLLC
7TH FLOOR
2000 M STREET, N.W.
WASHINGTON, DC 20036-3307

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SEP 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Jon Croy et al	:	
Application No. 11/503,912	:	DECISION GRANTING PETITION
Filed: August 15, 2006	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 20-853	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed September 2, 2010, 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.

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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

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JAN 13 2011

OFFICE OF PETITIONS

In re Application of :
Kenji EBITANI :
Application No. 11/503,915 : DECISION ON PETITION
Filed: August 15, 2006 : UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. **129127** :

This is a decision on the petition under 37 CFR 1.313(c), filed January 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition 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;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). In this instance, petitioner requests withdrawal from issue for consideration of a request for continued examination (RCE) filed concurrently with the petition. However, the RCE is not in compliance with 37 CFR 1.114 in that the submission required has been omitted.

In view of the above, the circumstances of the above-identified application do not fall within any of the above exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted at this time.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: **(571) 273-0025**
Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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ALEXANDRIA, VA 22320-4850

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JAN 24 2011

OFFICE OF PETITIONS

In re Application of :
Kenji EBITANI :
Application No. 11/503,915 : DECISION GRANTING PETITION
Filed: September 15, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **129127** :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed January 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2625 for processing of the previously filed request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed January 13, 2011.

/Monica 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 Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/503,990	08/15/2006	Hideo Ando	293681US2SDIV	3090

22850 7590 08/09/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
NGUYEN, HUY THANH	

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
08/09/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
ANDO, HIDEO, et al :
Application No. 11/503,990 : DECISION ON PETITION
Filed: August 15, 2006 :
For: **INFORMATION RECORDING METHOD, INFORMATION RECORDING MEDIUM, AND INFORMATION REPRODUCING METHOD, WHEREIN INFORMATION IS STORED ON A DATA RECORDING PORTION AND A MANAGEMENT INFORMATION RECORDING PORTION** :

This is a decision on the petition, filed July 19, 2010, under 37 CFR 1.181(a)(3) for consideration of a reference included with an Information Disclosure Statement filed August 15, 2006.

A review of the application file reveals that the information disclosure listing submitted on August 15, 2006, has been considered by the examiner. An initialed Form PTO-1449 was attached to the Supplemental Notice of Allowability mailed July 15, 2010. Attached to this decision is a copy of the initialed Form PTO-1449.

Accordingly, Petitioner's request is **Dismissed as Moot**.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: Initialed Form PTO-1449

Receipt date: 08/15/2006

11503990 - GAU: 2621

Form PTO 1449 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO. 293681US2S DIV	SERIAL NO. New Application
LIST OF REFERENCES CITED BY APPLICANT	APPLICANT Hideo ANDO, et al.	
	FILING DATE Herewith	GROUP

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA	4,797,752	01/10/89	GIDDINGS			
	AB	6,317,809	11/13/01	KULAKOWSKI, et al.			
	AC	6,212,330	04/03/01	YAMAMOTO, et al.			
	AD	6,181,870	01/30/01	OKADA, et al.			
	AE	5,778,142	07/07/98	TAIRA, et al.			
	AF	5,915,067	06/22/99	NONOMURA, et al.			
	AG	5,999,696	12/07/99	TSUGA, et al.			
	AH	5,999,698	12/07/99	NAKAI, et al.			
	AI	6,088,507	07/11/00	YAMAUCHI, et al.			
	AJ	6,094,414	07/25/00	TAIRA, et al.			
	AK	6,112,011	08/29/00	HISATOMI			
	AL	6,198,874 B1	03/06/01	KANESHIGE, et al.			
	AM	6,222,806	04/24/01	MORI, et al.			
	AN	6,697-565 B2	02/2004	ANDO, et al.			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
	AO	58-88978	05/27/83	Japan		X
	AP	60-236163	11/22/85	Japan		X
	AQ	2-206820	08/16/90	Japan		X
	AR	8-263969	10/11/96	Japan (Priority Application to U.S. 5,778,142)	X	
	AS	60-236163	11/22/85	Japan (with English abstract)		X
	AT	58-088978	05/27/83	Japan (with English abstract)		X
	AU	02-206820	08/16/90	Japan (with English abstract)		X
	AV	11-238318	08/31/99	Japan		X

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	Explanation of Circumstances concerning Accelerated Examination for Japanese Patent Application No. 1998-133832 (with English translation)
	AX	
	AY	
	AZ	

■ Additional References sheet(s) attached

Examiner /Huy Nguyen/ Date Considered 07/12/2010

*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. /H.N./

Receipt date: 08/15/2006

11503990 - GAU: 2621

SHEET 2 OF 2

Form PTO 1449 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO. 293681US2S DIV	SERIAL NO. New Application
LIST OF REFERENCES CITED BY APPLICANT	APPLICANT Hideo ANDO, et al.	
	FILING DATE Herewith	GROUP

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AAA	6,529,681 B1	03/2003	ANDO, et al.			
	AAB	6,339,674 B1	01/2002	ANDO, et al.			
	AAC	6,308,005 B1	10-2001	ANDO, et al.			
	AAD	6,341,196 B1	01/2002	ANDO, et al.			
	AAE	6,181,870 B1	01/2001	OKADA, et al.			
	AAF	5,745,643 A	04/1998	MISHINA, Masamitsu			
	AAG	6,915,066 B2	07/2005	ANDO, et al.			
	AAH						
	AAI						
	AAJ						
	AAK						
	AAL						
	AAM						
	AAN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
	AAO	8-315551	11/29/96	Japan		X
	AAP	9-135412	05/20/97	Japan		X
	AAQ	10-112166	04/28/98	Japan		X
	AAR	11-162119	06/18/99	Japan		X
	AAS					
	AAT					
	AAU					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AAV	
	AAW	
	AAX	
	AAY	☐ Additional References sheet(s) attached

Examiner /Huy Nguyen/	Date Considered 07/12/2010

*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. /H.N./

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SEP 19 2011

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Suk-Kun Kim	:	
Application No. 11/504,035	:	ON PETITION
Filed: August 15, 2006	:	
Attorney Docket No. 0630-2836PUS1	:	

This is a decision on the petition filed July 15, 2011, entitled "PETITION TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT."

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the Notice of Allowance/Notice of Allowability mailed January 25, 2011. A Notice of Abandonment was mailed on May 12, 2011.

Petitioner files the above petition and states that "After receiving the Notice of Allowance on January 25, 2011, a call was made to the Examiner on January 27, 2011, who indicated that drawings were not necessary. Therefore, Applicant believed that corrected drawings were not necessary."

Applicant further argues that "Upon receipt of the Notice of Abandonment, Applicant's representative again called the Examiner who confirmed that corrected drawings were received in the Amendment filed on January 14, 2011 in response to the interview with the Examiner on January 13, 2011. The Examiner confirmed that the indication on the Notice of Allowance that drawings were need is a USPTO error, as evidenced by the communication dated July 5, 2011 attached hereto. The communication from the U.S. Patent and Trademark Office confirms that drawings were received on January 14, 2011. Therefore, Applicant submits that the holding of abandonment should be withdrawn and the case should proceed to issuance."

It should be noted that regardless of what the examiner stated, or the Interview Summary of July 14, 2011, and the Office communication of June 24, 2011, the above, did not operate to avoid the application from becoming abandoned. It was petitioner's responsibility to file a timely reply to the Notice mailed January 25, 2011. Note 37 CFR 1.2.

Regrettably, in view of the above, the petition to withdraw holding of abandonment is dismissed. Consequently, the application was properly held abandoned.

Petitioner may wish to consider filing a petition under the provisions of 37 CFR 1.137 and pay the required fee.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Suk-Kun Kim :
Application No. 11/504,035 : ON PETITION
Filed: August 15, 2006 :
Attorney Docket No. 0630-2836PUS1 :

This is a decision on the petition filed September 28, 2011, entitled "REVISED PETITION TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT."

The petition is again **DISMISSED**.

The application became abandoned for failure to timely reply to the Notice of Allowance/Notice of Allowability mailed January 25, 2011. A Notice of Abandonment was mailed on May 12, 2011.

Petitioner asserts that the instant application is not abandoned in fact as the requirement in the Notice of Allowability (Notice) of April 4, 2000 for new formal drawings to be submitted on or before July 4, 2000 was erroneously issued as predicated on an incorrect holding by the examiner. Petitioner asserts that the examiner has confirmed that the drawings of record at the time the Notice was issued were in fact formal.

However, the failure to reply to the Notice is controlling; not the correctness of the Notice in whole or in part, as to the question of abandonment *vel non*.

35 USC 133 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.

Petitioner was also advised by the Notice that failure to timely reply to any requirement in the Notice would result in the abandonment of the application for failure to prosecute. As noted in 37 CFR 1.135(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.

Since the record fails to show that applicant did not file any sort of timely reply to the Notice, applicant is not in a strong position to urge that the application is in any condition other than abandoned for failure to prosecute. While abandonment occurs by operation of law for failure to prosecute after notice has been given or mailed to an applicant, abandonment is not also conditioned on the correctness, in whole or in part, of that notice. See 35 USC 133. In this regard, had applicant failed to timely reply within the shortened (or as extended) statutory period to a requirement for restriction that was later determined by the examiner to be untenable as drafted, or a rejection for say, anticipation over a reference that was facially not available as prior art against the instant application, applicant would likewise would not been relieved of his obligation to timely reply and request reconsideration of the requirement or rejection to avoid a holding of abandonment. Should applicant be confronted with this situation in the future, applicant may timely reply in writing (see 37 CFR 1.2) and traverse such a requirement much as was done in the petition, and applicant also has the option of directly contacting the examiner, and requesting that he, in writing such as in an Examiner Interview Summary Form which must be mailed prior to expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement. In the latter instance, the requirement must be withdrawn, in writing by the examiner, before the shortened (or as extended) period has expired.

Regrettably, in view of the above, the petition to withdraw holding of abandonment is again dismissed. Consequently, the application was properly held abandoned.

Petitioner is encouraged to consider filing a petition under the provisions of 37 CFR 1.137 and pay the required fee.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
JAN 31 2012
OFFICE OF PETITIONS

In re Application of
Suk-Kun Kim
Application No. 11/504,035
Filed: August 15, 2006
Attorney Docket No. 0630-2836PUS1

DECISION ON PETITION

This is a decision on the petition filed November 23, 2011, entitled "RECONSIDERATION REQUEST UNDER 37 CFR 181 TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT."

The petition is **Denied**.

BACKGROUND

The instant application was filed on August 15, 2006.

On January 25, 2011, a Notice of Allowance/Notice of Allowability was mailed. The Notice of Allowability required corrected drawings. The Notice set a non-extendable period of three-months from the mail date of the Notice to reply.

The issue and publication fees were timely received on April 22, 2011, in response to the Notice of Allowance mailed January 25, 2011. However, on May 12, 2011, a Notice of Abandonment was mailed to applicant. A Miscellaneous Communication was mailed on July 5, 2011. An Interview Summary was conducted on July 14, 2011. A petition to Withdraw Holding of Abandonment was filed on July 15, 2011. On September 13, 2011, a petition dismissing the July 15, 2011 petition was mailed. On September 28, 2011, a renewed petition was filed. On November 9, 2011, a petition dismissing the September 28, 2011 petition was mailed. On November 23, 2011, the instant renewed petition was filed.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 USC 133 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.

Petitioner asserts that the instant application is not abandoned in fact as the requirement in the Notice of Allowability (Notice) of January 25, 2011 for new formal drawings to be submitted on or before April 25, 2011 was erroneously issued as predicated on an incorrect holding by the examiner. Petitioner asserts that the examiner has confirmed that the drawings of record at the time the Notice was issued were in fact formal."

OPINION

Petitioners request that the holding of abandonment indicated in the Notice of Abandonment mailed May 12, 2011 be withdrawn.

Petitioner was advised by the Notice mailed January 25, 2011, that failure to timely reply to any requirement in the Notice would result in the abandonment of the application for failure to prosecute. As noted in 37 CFR 1.135(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.

Petitioner argues that "... there was no substantive drawing correction requirement in the Notice of Allowance. All that is presented in the Notice of Allowability, which is part of the Notice of Allowance, with respect to the drawings is paragraph No. 5, which contains two checkmarks therein. Paragraph No. 5's first check marked sentence states "CORRECTED DRAWINGS (as 'replacement sheets') must be submitted."...."

However, as stated in the decision mailed November 9, 2011, "Since the record fails to show that applicant did not file any sort of timely reply to the Notice, applicant is not in a strong position to urge that the application is in any condition other than abandoned for failure to prosecute. While

abandonment occurs by operation of law for failure to prosecute after notice has been given or mailed to an applicant, abandonment is not also conditioned on the correctness, in whole or in part, of that notice. See 35 USC 133. In this regard, had applicant failed to timely reply within the shortened (or as extended) statutory period to a requirement for restriction that was later determined by the examiner to be untenable as drafted, or a rejection for say, anticipation over a reference that was facially not available as prior art against the instant application, applicant would likewise would not been relieved of his obligation to timely reply and request reconsideration of the requirement or rejection to avoid a holding of abandonment. Should applicant be confronted with this situation in the future, applicant may timely reply in writing (see 37 CFR 1.2) and traverse such a requirement much as was done in the petition, and applicant also has the option of directly contacting the examiner, and requesting that he, in writing such as in an Examiner Interview Summary Form which must be mailed prior to expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement. In the latter instance, the requirement must be withdrawn, in writing by the examiner, before the shortened (or as extended) period has expired."

Again, the failure to reply to the Notice is controlling; not the correctness of the Notice in whole or in part, as to the question of abandonment *vel non*.

DECISION

A review of the record indicates that the Notice of Abandonment mailed May 12, 2011 was proper due to applicant's failure to timely reply to the Notice mailed January 25, 2011. As such, the petition is **DENIED**.

ALTERNATIVE AVENUE:

Petitioners are encouraged to file a petition under 37 CFR 1.137 to revive the above referenced application. For petitioner's convenience forms PTO/SB/61 and PTO/SB/64 are attached.

Telephone inquiries concerning this decision should be addressed to Karen Creasy at 571-272-3208.

Anthony Knight
Director, Office of Petitions

ATTACHMENT: Petition Forms PTO/SB/61 and PTO/SB/64

RECEIVED
CENTRAL FAX CENTER
MAY 09 2011

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/29/11

TO SPE OF : ART UNIT 3628

SUBJECT : Request for Certificate of Correction for Appl. No.: 11504047 Patent No.: 7756731

CofC mailroom date: 04/13/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE John Hayes — Art Unit 3628

PAGE 1/1 * RCVD AT 5/9/2011 8:19:59 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/9 * DNIS:2709990 * CSID:703 308 3691 * DURATION (mm-ss):01-15

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Patent No. : 7,941,802 B2
Ser. No. : 11/504,146
Inventor(s) : Sokolov et al.
Issued : May 10, 2011
Title : REDUCED INSTRUCTION SET FOR JAVA VIRTUAL MACHINES
Docket No. : 063435-412642
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
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www.uspto.gov

ARMANDO F. SEGURA
14371 SOUTH WEST, 45TH. TERRACE,
MIAMI FL 33175

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Armando F.SEGURA	:	
Application No. 11/504,202	:	DECISION ON PETITION
Filed: August 15, 2006	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 04, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 16, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, replacement drawings, and a substitute specification (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of October 16, 2008 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 3633 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 60130-2909 PUS1	Patent Number: 7670122
Filing Date (or 371(b) or (f) Date): 08/15/2006	Issue Date: 03/02/2010
First Named Inventor: Edward H. Phillips	
Title: GEROTOR PUMP	

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 /Matt L. Koziarz/	Date 8-26-2010
Name (Print/Typed) Matt L. Koziarz	Registration Number 53154

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
www.uspto.gov

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 09/08/2010

Applicant	: Edward H. Phillips	: DECISION ON REQUEST FOR
Patent Number	: 7670122	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/504,287	: OF WYETH
Filed	: 08/15/2006	:
		:

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

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Jorge D. Brioni et al. :
Application No. 11/504,342 : DECISION ON PETITION
Filed: August 15, 2006 :
Attorney Docket No. **6753USC1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 20, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 acknowledge as the attorney of record regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 1627 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

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 Paper No.

DEC 13 2010

OFFICE OF PETITIONS

THE LAW OFFICES OF CALVIN B. WARD
18 CROW CANYON COURT, SUITE 305
SAN RAMON CA 94583

In re Application of :
Lester :
Application No. 11/504,435 :
Patent No.: 7,674,639 : DECISION ON PETITION
Filed: August 14, 2006 : PURSUANT TO
Issued: March 9, 2010 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: 54714 :
Title: GAN BASED LED WITH :
ETCHED EXPOSED SURFACE FOR :
IMPROVED LIGHT EXTRACTION :
EFFICIENCY AND METHOD FOR :
MAKING THE SAME :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on October 22, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment in the amount of $755 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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EPSTEIN DRANGEL LLP
60 EAST 42ND STREET
SUITE 2410
NEW YORK NY 10165

MAILED

SEP 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Koren et al.	:	
Application No. 11/504467	:	ON PETITION
Filing Date: 08/15/2006	:	
Attorney Docket Number:	:	
2273-100US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2011, to revive the above-identified application.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 17, 2010. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned November 22, 2008.

Applicant files the present petition, Request for Continued Examination ("RCE"), and an Amendment in reply to the Office action.

The petition under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Regarding a RCE, an applicant cannot request continued examination of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in

the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)).

In this instance, the application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 17, 2010. As such, prosecution of the application is not closed, and the RCE is not a proper reply to the Office action.

Petitioner may request a refund of the RCE fee by writing to the Office of Finance, Refund Section. A copy of this Decision should be included with the request.

The MPEP further provides that "[i]f prosecution in the application is not closed, applicant will be notified of the improper RCE and any amendment/reply will be entered. Thereafter, the application will be forwarded to the examiner for consideration of the amendment/reply under 37 CFR 1.111. MPEP 706.07(h).

In view of the above, the petition is **granted**. The application is being referred to Technology Center Art Unit 3626 for consideration of the amendment.

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

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.
11/504,474	08/14/2006	Eugene J. Hoffmann	4L091-010	2814

7590 09/17/2010

David E Lund
115 Cashire Drive
Heartford, NC 27944

EXAMINER	
BOECKMANN, JASON J	
ART UNIT	PAPER NUMBER
3752	

MAIL DATE	DELIVERY MODE
09/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EUGENE J. HOFFMAN
DAVID E. LUND

Appeal 2010-002699
Application 11/504,474
Technology Center 3700

Before , DALE M. SHAW *Division 2 Support Administrator*

DISMISSAL OF PETITION

The original Petition To Make Special Based Upon Age For Advancement Of Examination Under 37 CFR 1.102(c)(1), filed on December 5, 2006, was DISMISSED on January 19, 2007 because it was not accompanied by evidence showing that at least one of the Applicants was 65 years old or more.

On January 24, 2007, the Applicants filed another Petition To Make Special … along with a Certificate of Birth for Applicant, David E. Lund, indicating his date of birth was March 6, 1937 and thereby rendering him

more than 65 years of age. As such, on February 8, 2007, the Decision GRANTING the January 24, 2007 Petition was mailed to the Applicants.

On September 3, 2010, David E. Lund, filed another Petition To Make Special Based Upon Age For Advancement Of Examination Under 37 CFR 1.102(c)(1), referencing the age of the second inventor, Eugene J. Hoffman.

This petition is hereby DISMISSED because the earlier petition was filed and granted in this application. No more action is necessary in this matter as the application was already granted "special status" on February 8, 2007.

If there are any questions pertaining to this Decision, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

mev

DAVID E LUND
115 CASHIRE DRIVE
HEARTFORD NC 27944

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, STE. 205
3209 WEST 76TH STREET
EDINA MN 55435

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Hal BERGHEL et al.	:	
Application No. 11/504,483	:	DECISION ON PETITION
Filed: August 15, 2006	:	
Attorney Docket No. 777.002US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 09, 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 July 29, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 29, 2010. Accordingly, the date of abandonment of this application is July 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 $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to the Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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GARY M. NATH
NATH & ASSOCIATES PLLC
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,488,174 :
Issue Date: February 10, 2009 :
Application No. 11/504,588 : NOTICE
Filed: August 16, 2006 :
Attorney Docket No. 25588Y :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 8, 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 **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Currently, no records are found under the name Susanne M. Hopkins in the U.S. Patent and Trademark Office (USPTO) database. In the request, pursuant to 37 CFR § 1.28(c) filed December 8, 2010, Ms. Hopkins also gives a registration number that is not associated with her name.

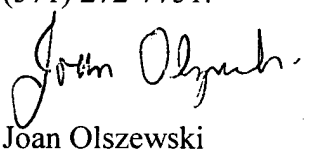
Further correspondence with respect to this matter should be addressed as follows:

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

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P.O. Box 1450
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GARY M. NATH
NATH & ASSOCIATES PLLC
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,488,174 :
Issued: February 10, 2009 :
Application No. 11/504,588 : ON PETITION
Filed: August 16, 2006 :
Attorney Docket No. 25588Y :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 15, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WENDEROTH, LIND & PONACK, LLP
1030 15TH STREET, NW
SUITE 400 EAST
WASINGTON, DC 20005-1503

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Makoto Momosaki, et al. :
Application No. 11/504,706 : DECISION ON PETITION
Filed: August 16, 2006 : UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 2006_1365A :

This is a decision on the petition under 37 CFR 1.313(c), filed January 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED** as moot in view of the request filed January 13, 2011 withdrawing the petition under 37 CFR 1.313(c).

Petitioner requests that the petition to withdraw from issue under 37 CFR 1.313(c) filed January 11, 2011 be withdrawn as the petition was filed in error. The Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) filed on January 11, 2010 have been placed in the filed and will not be considered for entry.

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.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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NOV 18 2010

OFFICE OF PETITIONS

In re Application of :
Halliburton et al. :
Application No. 11/504712 : DECISION
Filing or 371(c) Date: 08/16/2006 : ON PETITION
Title of Invention: TICKET DISPENSER :

This is a decision on the "Petition to Revive Patent Application Unavoidably Abandoned Under 37 CFR 1.137(a)," filed August 9, 2010, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed March 12, 2010, and set a non-extendable three (3) month period for reply. No timely and proper reply having been received, the application became abandoned on June 13, 2010. A Notice of Abandonment was mailed July 1, 2010.

The present petition

Applicant files the present petition and explains that the delay in filing the issue fee was unavoidable because the personal check for $750.00 and an issue transmittal were incorrectly addressed to a Veneble (Veneble LLP), Post Office ("P.O.") Box, instead of the P.O. Box for the Commissioner of Patents. Petitioner explains that Mr. Andrew C. Aitken was responsible for prosecution of the present application while employed at the firm of Veneble, LLP, and in 2009 Mr. Aitken initiated his own solo practice. The issue fee and transmittal form were addressed by Mr. Aiken, who did not immediately recognize that the address was incorrect. Petition at p.3. Petitioner avers that due care was taken to ensure that the issue fee would be timely paid, and

that the incorrect P.O. Box transcription was an inadvertent mistake, akin to a typographical error, and not negligence.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition lacks item (3).

As to item (**3**), Applicant must provide 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. 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).

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 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. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 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 CFR 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 CFR 1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). 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).

The MPEP 711.03(c), in explaining the difference between unintentional and unavoidable delay, provides, in relevant part:

> A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c), subsection II.C.2. In addition, a

petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional.

Analysis

Applicant files the present petition and explains that the delay in filing the issue fee was unavoidable because the personal check for $750.00 and an issue transmittal were incorrectly addressed to a Veneble (Veneble LLP), Post Office ("P.O.") Box, instead of the P.O. Box for the Commissioner of Patents. However, Applicant has failed demonstrate that incorrectly addressing the issue fee and transmittal form were unavoidable, as opposed to unintentional. As noted *supra*, the standard 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. (Emphasis supplied). The Office finds that prudent and careful persons, in relation to their most important business, would have in place safeguards to ensure the correspondence is properly addressed to this Office. While the delay may be said to have been unintentional, the Office finds that the delay in filing the issue fee was not unavoidable. Moreover, as noted supra, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a).

Conclusion

The petition is dismissed.

Alternate Venue

Applicant is strongly 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).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents

PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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MAR 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Halliburton et al.	:	
Application No. 11/504712	:	DECISION
Filing or 371(c) Date: 08/16/2006	:	ON PETITION
Title of Invention: TICKET DISPENSER	:	

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b)," filed December 29, 2010, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed March 12, 2010, and set a non-extendable three (3) month period for reply. No timely and proper reply having been received, the application became abandoned on June 13, 2010. A Notice of Abandonment was mailed July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee (previously filed on August 9, 2011); (2) the petition fee; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ANDREW C. AITKEN
P.O. BOX 1810
WHEATON, MD 20915

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AUG 09 2010

OFFICE OF PETITIONS

BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

In re Application of
JACKMAN, John P. et al.
Application No. 11/504,828
Filed: August 15, 2006
Attorney Docket No. **025000-00201**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2010.

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.

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 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: **NYEMASTER GOODE**
625 FIRST STREET SOUTHEAST
SUITE 400
CEDAR RAPIDS IA 52401

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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JUL 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Charles Abraham	:	
Pat. Num.: 7,848,778	:	
Issue Date: 12/07/2010	:	
Application No. 11/504853	:	ON APPLICATION FOR
Filing or 371(c) Date: 08/16/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
18954US02	:	

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING NOTICE OF ALLOWANCE, filed November 2, 2010. Applicant avers that the correct Patent Term Adjustment is 405 days, not 190 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction (1) based upon an assertion that the Office erred in failing to calculate a delay of 136 days, and (2) on the basis that the Office will take in excess of three years to issue this patent. The above-identified application matured into U.S. Patent No. 7,848,778, on December 7, 2010. The application for patent term adjustment is therefore properly treated as a request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(d).

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On December 7, 2010, the above-identified application matured into U.S. Patent No. 7,848,778. The patent issued with a PTA of 503 days.

Applicants request that the Determination of Patent Term Adjustment be corrected from 190 days, as indicated on the Determination of PTA mailed August 2, 2010, to an adjustment of 405 days. Applicant provides that the Office failed to calculate a reduction of 136 days in connection with the filing of a Notice of Appeal in response to a final Office action, on March 12, 2010. Office records confirm that a non-final Office action was mailed on May 15, 2009. Applicant filed an Amendment in response to the non-final Office action on September 19, 2009. In reply, the Office mailed a final Office action on December 11, 2009. Applicants thereafter filed a Notice of Appeal, an extension of time, and a Pre-Appeal Brief Request for Review on March

12, 2010. In a Notice of Panel Decision from Pre-Appeal Brief Review, mailed July 26, 2010, the Office withdrew the rejection, and mailed a Notice of Allowance on August 2, 2010.

With respect to the Notice of Appeal and extension of time filed March 12, 2010, the calculations of record are correct. In view of the Panel Decision, the period of reduction under 37 CFR 1.704(b) is calculated based upon the Amendment filed September 15, 2009, which is treated as a sufficient reply to the non-final Office action mailed May 15, 2009.

As to the Office taking in excess of three years to issue this patent, the over three year period begins on August 17, 2009, and ends on December 7, 2010, the day th epatent issued, and is 334 days.

In view thereof, the patent issued with a patent term adjustment 503 days. In view thereof, it is concluded that the patent correctly issued with a revised Patent Term Adjustment of 503 days. Given that there is no change in the Patent Term Adjustment, it is determined that no further action is required by the Office at this time.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
Andrei E. Vityaev :
Application No. 11/504949 : ON APPLICATION FOR
Filing or 371(c) Date: 08/16/2006 : PATENT TERM ADJUSTMENT
Atty Docket No.: :
16002US02 :

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, filed September 3, 2010. Applicant requests that the Patent Term Adjustment be changed to reflect 1103 days, not 670 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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United States Patent and Trademark Office
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Paper No.

BenQ Corporation
16 Jihu Road, Neihu
Taipei 11492
TAIWAN

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MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Chiu et al. : DECISION ON
Application No. 11/504,963 : PETITION
Filed: August 15, 2006 :
Atty Docket No. TC03B08002 :

This is a decision on the "PETITION TO REVIVE ABANDONED ALLOWED APPLICATION," filed January 31, 2011. This petition is properly treated as a petition to withdraw the holding of abandonment.

The above-identified application became abandoned effective January 7, 2011 for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, October 6, 2010, of the Notice of Allowance and Fee(s) Due. A courtesy Notice of Abandonment was mailed on January 26, 2011.

In response, applicants timely filed the instant petition. Applicants maintain that a reply was timely filed on November 18, 2010, but placed in the wrong application by the USPTO.

A review of the record of the other application confirms that the response as petitioner maintains it was filed on November 18, 2010 and was, in fact, filed on that date by facsimile transmission. Moreover, the numbers on the document were blurred in transmission and the Office misidentified the application number thereon and entered the paper (and fees) in the wrong application. This has been corrected. The response filed November 18, 2010 (including the issue fee and publication fee) has been "moved" from the electronic record of the wrong application to the record of the instant application. Moreover, given the date of receipt, the response is considered timely filed.

In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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Date :February 1, 2011

Patent No. :7508321
Inventor :Andre Gueziec et al.
Patent Issued :March 24, 2009
Title :SYSTEM AND METHOD FOR PREDICTING TRAVEL TIME FOR A TRAVEL
:ROUTE

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.

Accordingly, applicants' proposed request to change inventorship information is not warranted entry. Review of the inventorship data for which applicant attempts to change failed to reveal documents in support of applicants request, further, applicants cititzenship as data on the title page of the letters patent. Accordingly, the inventorship as presented is considered to be in accordance with the record of the Patent and Trademark Office as passed to issue by the examiner.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Carr & Ferrell, LLP
120 Constitution Drive
Menlo Park, CA 94025

/arg

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MOMENTIVE PERFORMANCE MATERIALS INC.
C/O DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY NY 11797

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DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Antonio Chaves et al. :
Application No. 11/505,055 : ON PETITION
Filed: August 14, 2006 :
Attorney Docket No.: 1302-137 :
(US 214139)

This is a decision on the petition filed November 18, 2010 to withdraw the holding of abandonment which is being treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on June 29, 2010 for failure to file a timely response to the non-Final Office Action mailed March 26, 2010, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed November 9, 2010.

Petitioner asserts that a proper response, was filed on September 27, 2010 with a three month extension of time. In support, petitioner submits a copy of the reply and extension of time request said to have been filed, which includes a certificate of mail dated September 27, 2010, pursuant to 37 CFR 1.8.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged. The fee for the three month extension of time was previously charged to petitioner's deposit account.

This matter is being referred to Technology Center 1621 for appropriate action on the amendment filed September 27, 2010, a copy of which was submitted November 18, 2010 with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

NORRIS MCLAUGHLIN & MARCUS, P.A.
721 ROUTE 202-206
P.O.BOX 5933
BRIDGEWATER, NJ 08807-5933

In re Application of :
Matthew Shubilla :
Application No. 11/505,086 : ON PETITION
Filed: August 16, 2006 :
Attorney Docket No. 105754-002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 7, 2009. A Notice of Abandonment was mailed February 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on November 10, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 3782 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Alicia Kelley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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In re Patent No. 7,974,403	:	DECISION ON
Wang, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: July 5, 2011	:	AND NOTICE OF INTENT
Application No. 11/505,108	:	TO ISSUE
Filed: August 15, 2006	:	CERTIFICATE OF
Attorney Docket No. HUAW01-12004	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. 1.705(d)", filed September 6, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand two hundred ninety-four (1294) days to one thousand three hundred twenty-two (1322) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand three hundred twenty-two (1322)** days.

On July 5, 2011, the above-identified application matured into U.S. Patent No. 7,974,403. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on September 6, 2011 (timely filed as September 5, 2011 was a federal holiday).

Patentees assert that they should not have been assessed applicant delay of sixty-four (64) days for the submission of a Rule 312 Amendment on May 3, 2011, after the Notice of Allowance was mailed on April 8, 2011. Rather, Patentees assert that they should have only been assessed applicant delay of thirty-six (36) days.

37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the... paper". Here, Applicant filed the Rule 312 Amendment on May 3, 2011, and the Office mailed a Supplemental Notice of Allowability in response to the Rule 312 Amendment on June 7, 2011. Accordingly, Applicants should have been accorded 36 days of delay for the filing of the Rule 312 Amendment, not 64 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is one thousand three hundred twenty-two (1322) days ((997 days of "A" delay and 689 days of "B" delay) of PTO delay, reduced by 37 (36+1) days of applicant delay and 327 days of overlap between "A" and "B" delay).

Receipt of the $200.00 fee set forth in 37 CFR §1.18(e) is acknowledged.

The application 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 **one thousand three hundred twenty-two (1322)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,974,403 B2

DATED : **July 5, 2011**

INVENTOR(S) : Wang 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 1294 days.

Delete the phrase "by 1294 days" and insert – by 1322 days--

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570 WEST COLLEGE AVENUE
YORK PA 17404

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OFFICE OF PETITIONS

In re Application of	:	
Anderson et al.	:	
Application No. 11/505,112	:	ON PETITION
Filed: August 16, 2006	:	
Attorney Docket No. GAC-1015-CON	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/925,524.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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OPX BIOTECHNOLOGIES, INC.
2425 55TH STREET, STE.
#100
BOULDER CO 80301

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JAN 13 2011

OFFICE OF PETITIONS

In re Patent No. 7,846,688 :
Issue Date: December 7, 2010 :
Application No. 11/505,147 :
Filed: August 15, 2006 :
Attorney Docket No. 66888-337665 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on October 7, 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 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

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Tanner et al.	:	
Patent Number: 8,065,660	:	DECISION ON
Issue Date: 11/22/2011	:	APPLICATION FOR
Application No. 11/505154	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/15/2006	:	
Attorney Docket Number:	:	
26310-0239001	:	

This is a decision on the petition filed on January 20, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred twenty-nine (1429) 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 four hundred twenty-nine (1429) days is **GRANTED TO THE EXTENT INDICATED**.

Patentee provides that the Office erred in failing to calculate a reduction of one (1) day in connection with the filing of a supplemental reply to a non-final Office action on June 15, 2011, after filing a reply to the Office action on June 14, 2011, pursuant to 37 CFR 1.704(c)(8).

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 June 14, 2011. This Office mailed a Notice of Allowance and Issue Fee Due on June 30, 2011. Patentees request an additional one hundred forty-six (146) 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, November 22, 2011. Patentees aver that with the mailing of the Notice of Allowance on June 30, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 146-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 146 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 813 days, instead of 667 days.

Patentee's arguments have been carefully considered. Regarding the reduction of one (1) day in connection with the filing of a supplemental reply to a final Office action on June 15, 2011, after filing a reply to the Office action on June 14, 2011, Office records confirm that Applicant's filed a reply to a final Office action, mailed March 14, 2011, on June 14, 2011. Applicant's thereafter filed a supplemental reply to the Office action on June 15, 2011, and a reduction of one (1) day pursuant to 37 CFR 1.704(c)(8) is appropriate.

Regarding the assertion that that the Office erred in subtracting from the "B" Delay period the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued 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

[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of

allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

[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.

delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 16, 2009, and ends on June 13, 2011, the day before the RCE, filed June 14, 2011, was filed, and is 667 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1283 days, not 1429 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 **one thousand two hundred eighty-three (1283) days** (adjustments of 1337 days less reductions of 54 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 : 8,065,660 B1

DATED : **November 22, 2011**

INVENTOR(S) : Tanner 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 1284 days.

Delete the phrase "by 1284 days" and insert – by 1283 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/505,161	08/15/2006	Peter A. Zahos	6276/76509/JPW/JBG	4495

23432 7590 01/25/2012

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

EXAMINER	
MCMILLIAN, KARA RENITA	
ART UNIT	**PAPER NUMBER**
1627	

MAIL DATE	DELIVERY MODE
01/25/2012	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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United States Patent and Trademark Office
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JAN 2 5 2012

John P. White
COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of :
Zahos et al :Decision on Petition
Serial No.: 11/505,161 :
Filed : 15 August 2006 :
Attorney Docket No.: 6276/76509/JPW/AHC:

This letter is in response to the petition filed under 37 CFR 1.181 on 21 October 2011 to withdraw of the final rejection.

BACKGROUND

A review of the file record shows that claims were subject to a restriction requirement on 8 December 2009.

On 5 August 2010, the examiner prepared a first Office action on the merits addressing dependent claims 1-6, 9-20 and 29.

On 7 February 2011, applicants filed an amendment to the claims, along with a response.

On 21 April 2011, the examiner prepared a final Office action which included a new grounds of rejection of Claims 1, 4-6, 10, 11, 13, 15-20 and 29 under 35 U.S.C. 103(a) as being unpatentable over Di Mauro in view of Szabo and Collins.

On 21 July 2011, applicants filed an after final amendment.

In an advisory action mailed 21 September 2011, the examiner indicated that the amendment would be entered however the rejection under 35 U.S.C. 103(a) was being maintained.

On 25 October 2011, applicants filed a pre-appeal conference request, a notice of appeal and this petition, which was only recently brought to the deciding official's attention. There is no fee for the filing of this petition.

On 5 December 2011, the pre-appeal panel decided to let the application proceed to the Board of Appeals and Interferences, there being at least one actual issue for appeal.

DISCUSSION

Applicants' petition and file history have been considered carefully. The petition concerns the finality of the Office action mailed 21 April 2011. In that Office action, the claims were rejected under 35 U.S.C. 103(a) as being unpatentable over Di Mauro in view of Szabo and Collins. These references had been previously applied together in the rejection of claims 14-15 (see page 22 of the first Office action on the merits).

The petition states that in the advisory action, mailed 21 September 2011, the examiner articulated a rationale that was not present in the final Office action. The petition identifies the new rationale as "the treatment of inflammation, a symptom of degenerative disc disease, necessarily slows the progression of degenerative disc disease."

A review of the advisory action indicates that the following statements were made:

> "Furthermore, treating a chronic disease will necessarily slow the progression of the disease since the treatment will reduce the symptoms such as *inflammation which cause the disease to progress*." (Emphasis added in italics.)
>
> "...administering the compound to alleviate inflammation in the disc will necessarily slow the progression of the disease *since inflammation contributes to the progression of degenerative disc disease*." (Emphasis added in italics.)

A review of the final Office action shows that the obviousness rejection was modified in light of applicant's amendment and made final.

> Thus, in light of Applicant's amendments to the claims, a modified rejection under 35 USC 103 over DiMauro et al. in view of Szabo et al. and Collins et al. is detailed below. Accordingly, this action is made FINAL.

The topic of inflammation is not recited in the claims. Inflammation was discussed in the Office actions in terms of DiMauro's antagonistic effects of NO Synthase enzyme, which the examiner indicates are known to have pro-inflammatory effects. However, in both the first and final Office actions, the examiner admits that the DiMauro reference does not teach slowing the progression of degenerative disc disease. Szabo is relied upon as teaching that the selective inhibition of inducible NOS provides therapeutic benefit in shock and inflammation. However the rationale for why the combination of references renders the claims obvious is silent

concerning any indication that the examiner was relying upon inflammation as a contributor to the progression of degenerative disc disease.

The assertions set forth in the advisory action that inflammation contributes to or causes the progression of degenerative disc disease are considered new factual findings to the file which constitute new grounds of rejection.

Applicants assert that the final rejection should have been withdrawn in accordance with the holding of In Re Stepan Company, No. 2010-1261, (Fed Cir October 5, 2011. In this decision, the court stated that it is "crucial that the examiner issue a rejection (even if that rejection is subsequently withdrawn) so that applicant is on notice that it is obligated to respond." Because the new rationale was first set forth in the advisory action, applicant has not been given opportunity to address the newly raised reasoning as to why the examiner found the claims unpatentable.

DECISION

For these reasons, the petition under 37 CFR 1.181 is **GRANTED**.

The finality of the Office action mailed 21 April 2011 has been withdrawn. The amendment filed 21 July 2011 will be entered.

The application will be forwarded to the examiner to prepare an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at (571) 273-8300.

Remy Yucel
Director, Technology Center 1600

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ROBERT M. MCDERMOTT, ESQ.
1824 FEDERAL FARM ROAD
MONTROSS VA 22520

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of

Singh, et al.

Application No. 11/505,228

Filed: August 16, 2006

Attorney Docket No. **OP-050810**

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 6, 2011.

The petition is **granted**.

This application was held abandoned August 13, 2010, after no reply was received to the Notice of Panel Decision from Pre-Appeal Brief Review mailed July 12, 2010. The notice set forth an extendable period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on August 13, 2010. A Notice of Abandonment was mailed January 31, 2011. The instant petition was filed on March 6, 2011. Petitioner maintains that the notice of July 12, 2010, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center, GAU 2466 for further processing that will include Notice of Panel Decision from Pre-Appeal Brief Review 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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BOSTON, MASSACHUSETTS 02109

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of
Thomas W. CHALBERG et al
Application No. 11/505,249
Filed: August 15, 2006
Attorney Docket No. 2202703.122US2/AVA-010US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 12 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, as well as the corrected inventor name accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-0602. 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 1632 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.

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
11/505,249	08/15/2006	1632	1940	2202703.122US2/AVA-010US	25	1

CONFIRMATION NO. 5163

23483
WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

CORRECTED FILING RECEIPT

OC00000004343371 6

Date Mailed: 09/10/2010

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)

Thomas W. Chalberg JR., Redwood City, CA;
Mark Blumenkranz, Portola Valley, CA;
Daniel V. Palanker, Sunnyvale, CA;
Alexander Vankov, Menlo Park, CA;
Philip Huie JR., Cupertino, CA;
Michael F. Marmor, Stanford, CA;
Michele P. Calos, Burlingame, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23483

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/708,486 08/15/2005
and is a CIP of 11/360,984 02/22/2006
which claims benefit of 60/655,559 02/23/2005

Foreign Applications

If Required, Foreign Filing License Granted: 09/07/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/505,249**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

OCULAR GENE THERAPY USING AVALANCHE-MEDIATED TRANSFECTION

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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 08/31/2010

Applicant	: Pekka Pessi	: DECISION ON REQUEST FOR
Patent Number	: 7657656	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/505,327	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **690** 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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LAWNIE TAYLOR
LH TAYLOR ASSOCIATES, INC.
14421 BROOKMEAD DRIVE
GERMANTOWN, MD 20874

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Lawnie H. TAYLOR
Application No. 11/505,445
Filed: August 17, 2006
Attorney Docket No. **70178.0011US01**

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 3, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the certification of inventor Lawnie H. Taylor, Sr. attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-1700.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to Technology Center Art Unit 1796 for processing commensurate with this decision.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of
Judd
Application No. 11/505,506
Filed: August 16, 2006
Attorney Docket No. 11756-001-999

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 October 15, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 15, 2010. Accordingly, the date of abandonment of this application is October 16, 2010. A Notice of Abandonment was mailed on October 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) an acceptable statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Reed et al.	:	DECISION ON PETITION
Application No. 11/505,569	:	TO WITHDRAW
Filed: August 18, 2006	:	FROM RECORD
Attorney Docket No. 014058-008693US	:	

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 1, 2010.

The request is **NOT APPROVED**.

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 current request does not set forth the following certifications: (1) above. Accordingly, any subsequent requests must include all of the above listed certifications pursuant to 37 CFR 10.40.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed June 25, 2010, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER, SUITE 2800
SAN FRANCISCO CA 94105

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,767,657
Issue Date: August 3, 2010
Application No. 11/505,591
Filed: August 16, 2006
Attorney Docket No.
064507-5014-US01

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR 1.705(d)", filed September 1, 2010. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 348 to 434 days.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred sixty **(460)** days.

On August 3, 2010 the application matured into U.S. Patent No. 7,767,657 with a revised PTA thereon of 348 days. On September 1, 2010 patentee timely submitted a request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred thirty-four (434) days. Patentee disputes the reduction of one hundred twenty (120) days attributed to patentee for the submission of a paper filed January 19, 2010 after the Notice of Allowance was mailed.

This application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred forty-eight (348) days. The reduction of one hundred twenty (120) days pursuant to 37 C.F.R. § 1.704(c)(10) is at issue.

The reduction of 120 days has been found to be incorrect. A review of the application file, as stated by Patentee, supports a conclusion that the reduction should be for the filing of a petition pursuant to 37 CFR 1.48. The period of delay pursuant to 37 C.F.R. § 1.704(c)(10) in the amount of 8 days, is calculated therefore from the filing of the petition on January 19, 2010 to the mailing of the decision on January 26, 2010.

In view thereof, the patent term adjustment indicated in the patent should have been four hundred sixty **(460)** days.

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 **four hundred sixty (460) days**.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,767,657 B2

DATED : August 3, 2010

INVENTOR(S) : Stephen J. Baker

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 (348) days

Delete the phrase "by 348 days" and insert – by 460 days--

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NALCO COMPANY
1601 W. DIEHL ROAD
NAPERVILLE IL 60563-1198

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Application of
Murat Quadir et al.
Application No: 11/505,595
Filed: August 17, 2006
Attorney Docket No. 7579 D2

ON PETITION

This is a decision on the petition filed March 1, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

In response to a non-Final Office Action mailed June 10, 2009, an amendment was filed on December 10, 2009 with a three month extension of time request. However, in response thereof, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed January 21, 2010 which set a one month period for reply. A response filed July 22, 2010 was outside the period for reply thus, this application became abandoned. Accordingly, a Notice of Abandonment was mailed February 15, 2011.

A review of the record reveals that a five month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $2350.00 extension of time fee paid with the instant petition filed March 1, 2011 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 14-0105.

All other requirements having been met, this matter is being referred to Technology Center 1762 for appropriate action on the amendment filed March 1, 2011.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/505,734	08/17/2006	Michael B. Chancellor	28682-501D03US	6794

30623 7590 11/17/2010

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER	
HILL, KEVIN KAI	

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
11/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NOV 18 2010

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:
Chanellor et al.	:
Serial No.: 11/505,734	: PETITION DECISION
Filed: August 17, 734	:
Attorney Docket No.: **28682-501D03US**	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed August 9, 2010. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee of $130.00 under 37 CFR 1.17(h).

A review of the application record indicates that the petition fails to meet all of the requirements for acceptance of color drawings. Specifically, three set of color drawings were not provided.

The petition is **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions with respect to this decision, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0584or by facsimile transmission at 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/505,734	08/17/2006	Michael B. Chancellor	28682-501D03US	6794

30623 7590 02/01/2011

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER	
HILL, KEVIN KAI	

ART UNIT	PAPER NUMBER
1633	

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.

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FEB 0 1 2011

Ivor Elrifi
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:
Chancellor et al	:
Serial No.: 11/505,734	: PETITION DECISION
Filed: 17 August 2006	:
Attorney Docket No.: 28682-501D03US	:

This is in response to the petition under 37 CFR 1.144, filed 9 August 2010, requesting reconsideration of the restriction requirement. The petition was only recently forwarded to the deciding official. The resulting delay in acting upon this petition is regretted.

BACKGROUND

This application is a national application filed under 35 U.S.C. 111(a) and, as such, would be considered for restriction under US practice in chapter 800 of the MPEP.

On 30 March 2009, the examiner mailed a first restriction requirement in which claims 88-91 and 97-99 were divided into 2 groups, depending upon the marker expressed on the progenitor cells, with claim 88 being identified as a linking claim.

On 30 September 2009, applicants elected Group I with traverse. Applicant argued that Claim 91 should be included in Group I.

On 1 December 2009, the examiner prepared a second restriction requirement in which claims 99-90, 97 and 100-108 were divided into 5 groups. The examiner indicated that Claim 97 linked Groups I-V and that Claim 88 linked Groups I and IV-V.

On 1 February 2010, applicants elected Group I with traverse.

On 7 April 2010, the examiner considered the traversal and made the restriction requirement final. Claims 89-90 were withdrawn from consideration as being directed to a non-elected invention. The Office action included a series of double patenting rejections and obviousness rejections.

On 9 August 2010, Applicants filed a response, claim amendments and this petition.

DISCUSSION

The petition and file history have been carefully considered. The petition requests withdrawal of the restriction requirement.

At the onset, it is noted that the second restriction requirement, diagrammed in the chart below, is problematic in requiring election between a presence or an absence of a feature. Typically a restriction requirement sets forth a choice amongst different patentably distinct types of features, not their presence or absence.

	Includes claims	Encompassed by linking claims	Wherein the muscle derived progenitor cells express
Group I	91 and 98-108	88 and 97	Desmin, but not Bcl-2 or CD34
Group II	98-99 and 105-108	97	CD34, but not Bcl-2 or desmin
Group III	98-99 and 105-108	97	Bcl-2, but not CD34 or desmin
Group IV	89 and 98-108	88 and 97	Desmin, CD34 and Bcl-2
Group V	90 and 98-108	88 and 97	Sca-1, Flk-1 but not CD45 or cKit.

Independent claim 97, as currently pending and set forth below, recites a Markush group consisting of three cell surface markers. Dependent claims 105-106, 109-112 are not further limited to any particular cell surface marker, alone or in combination.

> 97. (Currently Amended) A method of restoring or improving contractility of smooth muscle tissue, comprising: administering a physiologically acceptable composition comprising isolated skeletal muscle-derived progenitor cells having long-term survivability when introduced into mammals, wherein the cells express at least one cell marker selected from the group consisting of desmin, CD34, and Bcl-2, and a carrier excipient, or diluent, to the smooth muscle tissue in an amount sufficient to restore or improve smooth muscle contractility.

MPEP 803.02 sets forth the following guidance concerning election of species requirements in Markush claims:

> If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they may be directed to independent and distinct inventions. In such a case the examiner will not follow the procedure described below and will not require provisional election of a single species. See MPEP § 808.02.

Here, the Markush group in Claim 97 is directed to three markers. In order for these markers to be considered patentably distinct, the species must be mutually exclusive. MPEP 806.04 provides the following guidance defining species:

> Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.

Here, applicants have persuasively argued that the groups overlap in scope. Applicants point to the specification and figures to show that the disclosed PP6 cells express desmin, bcl-1, CD34, Sca-1 and Flk-1 markers. For this reason, the restriction requirement between Groups I-V is not warranted.

DECISION

For these reasons, the petition is **GRANTED** as follows:

The first and second restriction requirements are withdrawn. Claims 97, 105-106 and 109-112 will be examined together in this application.

The application will be forwarded to the examiner for consideration of the papers filed 9 August 2010 and for preparation of an Office action consistent with this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jacqueline Stone
Director, Technology Center 1600

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

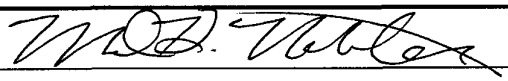
Attorney Docket Number: 080437.58048US	Patent Number: 7,661,768
Filing Date (or 371(b) or (f) Date): August 18, 2006	Issue Date: February 16, 2010
First Named Inventor: Markus HAMM	
Title: Integral Brake System Having Antilock Braking for a Motorcycle	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature 	Date August 3, 2010
Name (Print/Typed) Mark H. Neblett	Registration Number 42,028

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☒ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1 450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/12/2010

Applicant	: Markus Hamm	: DECISION ON REQUEST FOR
Patent Number	: 7661768	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/505,822	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **428** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NO. 016689
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
Hirotaka Mori :
Application No. 11/505,941 : DECISION GRANTING PETITION
Filed: August 18, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 016689.00034 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 20, 2012

In re Application of :

Kenichi Watanabe

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11505945

Filed : 18-Aug-2006

Attorney Docket No : 05-40887

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 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 2811 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	11505945
Filing Date	18-Aug-2006
First Named Inventor	Kenichi Watanabe
Art Unit	2811
Examiner Name	CUONG NGUYEN
Attorney Docket Number	05-40887
Title	SEMICONDUCTOR DEVICE HAVING CAPACITOR CAPABLE OF REDUCING ADDITIONAL PROCESSES AND ITS MANUFACTURE 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 2012.01.20 ☐ 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	/Tiep H. Nguyen/
Name	Tiep H. Nguyen
Registration Number	44465

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DUANE MORRIS, LLP
505 9TH STREET NW
SUITE 1000
WASHINGTON, DC 20004

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Joseph P. Kennedy, Jr. :
Application No. 11/505,950 : ON PETITION
Filed: August 18, 2006 :
Attorney Docket No. AND01 063 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 24, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 25, 2010..

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
Rashid Ahmed Akbar Attar et al :
Application No. 11/506,068 : DECISION ON PETITION
Filed: August 16, 2006 :
Attorney Docket No. 040613U1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 October 14, 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

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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BELL & MANNING LLC
122 E. OLIN AVENUE SUITE 290
MADISON WI 53713

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Jin, et al.	:	
Application No. 11/506,147	:	ON REQUEST FOR
Filed: August 17, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 00300-0117	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 2, 2010. Applicants believe that they should be accorded an additional PTA of 414 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 at the time of the mailing of the Notice of Allowance is **two hundred sixty (260) days** (260 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.

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COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001-3703

MAILED

MAR 21 2011

PCT LEGAL ADMINISTRATION

In re Application of :
Cronin et al. : DECISION ON PETITION
Application No. 11/506,176 :
Filed: August 18, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Dkt No. AFFY-048/01US 011851-2287 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed on January 29, 2007.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on January 29, 2007, further amended on December 2, 2010. However, the December 2, 2010 amendment is improper; it appears the amendment should have stated that 08/510,521 – is a – CIP of PCT/US94/12305. The January

29, 2007 amendment refers to PCT/US94/12305 twice, and this double reference is not corrected or repeated in the amendment filed on December 2, 2010.

The amendment also is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and correcting the other observed defects, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel.: (571) 272-3283

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

[1] *Note* 37 CFR 1.121

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SEP 27 2011

PCT LEGAL ADMINISTRATION

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001-3703

In re Application of
Cronin et al.
Application No. 11/506,176
Filed: August 18, 2006
Attorney Dkt No. AFFY-048/01US 011851-2287

: 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, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application(s) set forth in the amendment filed concurrently therewith.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on August 25, 2011. However, the continuity recited in said amendment appears to be incorrect; it appears the amendment should

have stated that 09/510,378 is a – CON – of 08/544,381, not a Continuation-In-Part. Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] correcting the observed defect, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel.: (571) 272-3283

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

[1] *Note* 37 CFR 1.121

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APR 07 2011

OFFICE OF PETITIONS

UNISYS CORPORATION
OFFICE OF THE GENERAL COUNSEL
801 LAKEVIEW DRIVE, SUITE 100
MAILSTOP: 2NW
BLUE BELL PA 19422

In re Application of	:	
Roger V. RITCHIE et al.	:	
Application No. 11/506,224	:	DECISION ON PETITION
Filed: August 18, 2006	:	
Attorney Docket No. RA 5794 (USYS.106PA)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), February 15, 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 July 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 26, 2010. Accordingly, the date of abandonment of this application is July 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Alexandria, VA 22313-1450
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MAILED

AUG 02 2010

OFFICE OF PETITIONS

IP LAW, LLC
44 NOLA DR.
HOLDEN, MA 01520

In re Application of
Steven Hufnagel, et al.
Application No. 11/506,236
Filed: August 18, 2006
Attorney Docket No. TDF06-02

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 June 25, 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 Stanley Hill on behalf of all attorneys of record who are associated with customer No. 36732. All attorneys/agents associated with the Customer Number 36732 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 June 4, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: TELESLOPE DECKFORMS, LLC
7437 CALKINS ROAD
FLINT, MI 48532

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
11/506,236	08/18/2006	Steven Hufnagel	TDF-10-01

CONFIRMATION NO. 8091

POWER OF ATTORNEY NOTICE

36732
IP Law, LLC
44 Nola Dr.
Holden, MA 01520

Date Mailed: 08/02/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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March 31, 2011

LUMEN PATENT FIRM
350 Cambridge Avenue
Suite 100
PALO ALTO CA 94306

In re Application of :
Peyman Milanfar et al. : **DECISION ON PETITION**
Application No. 11506246 :
Filed: 8/17/2006 : ***ACCEPTANCE OF COLOR***
Attorney Docket No. USC-103/CON : ***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) August 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/30/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No 11/506,~~685~~ 285 7879840

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1624 **Art Unit**

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CATERPILLAR INC.
INTELLECTUAL PROPERTY DEPT.
AH 9510
100 N.E. ADAMS STREET
PEORIA IL 61629-9510

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MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Mario E. BREU et al. :
Application No. 11/506,328 : DECISION ON PETITION
Filed: August 18, 2006 :
Attorney Docket No. **05-651** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 16, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) an adequate statement of unintentional delay. Accordingly, the response to the non-final Office action of June 16, 2009 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at

issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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 October 22, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to 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

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P.O. DRAWER 800889
DALLAS, TX 75380

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AUG 2 4 2010

OFFICE OF PETITIONS

In re Application of :
Michael E. Broach et al :
Application No. 11/506,335 : ON PETITION
Filed: August 17, 2006 :
Attorney Docket No. P06562 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 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 September 28, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 29, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2816 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BEYER LAW GROUP, LLP
PO BOX 1687
CUPERTINO, CA 95015-1687

MAILED
FEB 22 2012
OFFICE OF PETITIONS

In re Patent No. 7,896,169 :
Issue Date: March 1, 2011 :
Application No. 11/506,374 : NOTICE
Filed: August 18, 2006 :
Attorney Docket No. CFT1P001 :

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
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Alexandria, VA 22313-1450
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

MAILED
JUL 07 2011
OFFICE OF PETITIONS

In re Application of :
UHLIK et al. :
Application No. 11/506,378 : DECISION ON PETITION
Filed: 08/18/2006 :
Attorney Docket No. 3470-0024 :

This is a decision on the "PETITION UNDER 37 CFR § 1.182 REQUEST TO WITHDRAW RECORDED TERMINAL DISCLAIMER" filed June 17, 2011, requesting that the acceptance of the terminal disclaimer filed March 1, 2011, be withdrawn.

Petitioners request that the Director withdraw the terminal disclaimer filed on March 1, 2011, disclaiming U.S. Patent No. 7,369,841 as it is unnecessary. Specifically, petitioners assert the following:

1. In an office action mailed 12/8/2010, the examiner rejected claims 23, 24, 26-34, 36-40, 52-54, 56-66, 68-72, 74-82, and 84-86 on the ground of non-statutory obviousness-type double patenting over claims 1-35 of parent patent 7,369,841. The applicants filed a terminal disclaimer on 3/1/2011 disclaiming the parent patent 7,369,841 to obviate the examiner's double patenting claim rejections. The applicants now contend that the examiner's double patenting rejections were in error and thus request the Director withdraw the terminal disclaimer as unnecessary.

2. In the office action mailed 12/8/2010, the examiner alleged that claims 23, 24, 26-34, 36-40, 52-54, 56-66, 68-72, 74-82, and 84-86 of the '378 application were not patentably distinct from claims 1-35 of the parent patent 7,369,841. During the prosecution of the application that issued as the parent patent 7,369,841, the examiner issued a restriction requirement under 35 U.S.C. § 121, which he mailed 10/19/2004. The examiner identified four distinct inventions that "are related as combination and subcombination." In the response filed 11/22/2004, the applicants elected to prosecute group I, which eventually issued as the parent patent 7,369,841. The applicants filed three divisional applications off of the parent patent 7,369,841 to pursue claims in the restricted out groups II, III, and IV, respectively. The present application seeks to patent the claims of restricted out group II.

3. MPEP 804 (II) provides:
"Generally, a double patenting rejection is not permitted where the claimed subject matter is presented in a divisional application as a result of a restriction requirement made in a parent application under 35 U.S.C. 121."

4. Since the examiner alleged that the claims of the restricted out group II were distinct from the claims of the parent patent 7,369,841, she cannot now reject the claims of the present application on the ground of obviousness-type double patenting. The applicants inadvertently filed the terminal disclaimer on 3/1/2011 before realizing the error in the rejection. We therefore request the Director withdraw the terminal disclaimer filed 3/1/2011 disclaiming the parent patent 7,369,841.

Petition, 06/17/11, pp. 1-2.

Pursuant to MPEP 1490(VII)(A),

> 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. Because 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).
>
> Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR 1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR 1.114 will not nullify the effect of a terminal disclaimer, because a new application has not been filed, but rather prosecution has been continued in the existing application.

In the present petition, petitioners are seeking to reopen the question of the propriety of the double patenting rejection of December 8, 2010, that prompted the filing of the terminal disclaimer on March 1, 2011. However, such action is not an appropriate exercise of 37 CFR 1.182. Petitioners are reminded that it is the long-established policy of the USPTO to maintain the line of demarcation between petitionable and appealable matters. MPEP 1201. When the question of whether or not a given set of claims in one application or patent is distinct, or lies within the aegis of 35 U.S.C. 121, from another set of claims in another application or patent

with respect to obviousness double patenting arises, that question relates to the merits of an invention, and the appropriate remedy for resolution of that issue ultimately lies by appeal as provided by statute. See e.g. In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). As noted by the court in In re Faust, 378 F.2d 966, 153 USPQ 813 (CCPA 1967), "the terminal disclaimer eliminates the necessity of considering what are most often exceedingly difficult questions. i.e., whether the subject matter of the appealed claims is obvious in view of the patent claims relied on as the basis for 'double patenting,' thus conserving judicial man hours both here and in the Patent Office." Further, it is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

Petitioners had the opportunity to challenge the need for a terminal disclaimer, on appeal, but instead freely chose to file a terminal disclaimer to avoid the rejection. Moreover, petitioners have provided no explanation as to why filing of the terminal disclaimer, as opposed to contesting the propriety of the rejection, was caused by circumstances beyond petitioners' control. Nevertheless, petitioners have a suitable remedy on hand for their predicament that does not require the extraordinary remedy of invoking 37 CFR 1.182 to withdraw the terminal disclaimer. The USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). As explained in MPEP 1490, the effect of a recorded, but unwanted terminal disclaimer in this application may be overcome merely by filing a continuing application under 37 CFR 1.53.

Accordingly, the petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Correspondence may also be submitted electronically via the USPTO Electronic Filing System.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED
MAR 07 2011
OFFICE OF PETITIONS

In re Application of :
COHEN, Alexander J. et al. :
Application No. 11/506,415 : DECISION ON PETITION
Filed: August 18, 2006 : TO WITHDRAW
Attorney Docket No. 0306A-003-007-000000 : 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**.

A review of the file record indicates that Lewis C. Lee does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Lewis C. Lee is associated with customer number 49651 not 44765. Our records list the customer number 44765 in this patent application. Therefore, we cannot add customer number 55922 to the correspondence address.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MARGARET ANDERSON**
106 E. 6TH STREET, SUITE 900
AUSTIN, TX 78701

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

MAILED
OCT 05 2010
OFFICE OF PETITIONS

In re Application of :
Warren V. Barkley, et al. :
Application No.: 11/506,429 : ON PETITION
Filed: August 18, 2006 :
Attorney Docket No.: 317804.01 :

This is a decision on the petition, filed October 5, 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 16, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2477 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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PHILLIP E. LITTMANN
11028 ALLENHURST BLVD EAST
CINCINNATI, OH 45241

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NOV 21 2011

OFFICE OF PETITIONS

In re Application of :
Phillip Edward Littmann :
Application No. 11/506,500 : ON PETITION
Filed: August 20, 2006 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2011, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed December 27, 2010. A Notice of Abandonment was mailed on July 6, 2011.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment/arguments; (2) the petition fee of $930; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1627 for review of the response submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 08/31/2013. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OPAP IAP5 OCT 05 2010 PATENT & TRADEMARK OFFICE

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 27441/318US	
Application Number: 11/506,545	Filing Date (or 371(b) or (f) Date): 08/18/2006
Patent Number: 7,789,552	Issue Date: 09/07/2010
First Named Inventor: Kenneth L. Girvin	
Title: PARTICULATE TESTER WITH MIXER FOR ANALYTICAL APPLICATION	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature Terrance Fitzgerald	Date 9-30-10
Name (Print/Typed) Terrance W. Fitzgerald	Registration Number 66263

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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The Ollila Law Group LLC
2569 Park Lane
SUITE 202
Lafayette, CO 80026

Mail Date: 10/20/2010

Applicant	: Kenneth L. Girvin	: DECISION ON REQUEST FOR
Patent Number	: 7789552	: RECALCULATION of PATENT
Issue Date	: 09/07/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/506,545	: OF WYETH
Filed	: 08/18/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG & WOESSNER/Intel
PO BOX 2938
MINNEAPOLIS MN 55402

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SEP 28 2010

OFFICE OF PETITIONS

In re Application of
Joshua R. Smith et al.
Application No. 11/506,563
Filed: August 17, 2006
Attorney Docket No. **884.175US1**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 7, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 7, 2009. Accordingly, the date of abandonment of this application is August 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER/Intel
PO BOX 2938
MINNEAPOLIS MN 55402

In re Patent No. 7,825,776	:	DECISION ON REQUEST
Smith et al.	:	FOR
Issue Date: November 2, 2010	:	RECONSIDERATION OF
Application No. 11/506,563	:	PATENT TERM ADJUSTMENT
Filed: August 17, 2006	:	
Atty Docket No. 884.175US1	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.705(d), filed on January 3, 2011. Patentee requests that the patent term adjustment be corrected from zero (0) days to three hundred and twenty-seven (327) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

Patentee is given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Application No. 11/506,563 matured into U.S. patent No. 7,825,776 on November 2, 2010, with a patent term adjustment of zero days.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

Patentee contests one period of delay.

[1] Petition, page 2.

37 C.F.R. § 1.704(b) states, *in toto*:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

37 C.F.R. § 1.704(c)(3) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in 37 C.F.R. § 1.703 to the extent that the periods are not overlapping:

> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

A notice of allowance was mailed on May 7, 2009. The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to said notice of allowance, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[2] or publication fees.[3] Accordingly, the above-identified application became abandoned on August 8, 2009. A Notice of Abandonment was mailed on September 2, 2009. A petition pursuant to 37 C.F.R. § 1.137(b) was filed on September 1, 2010, and was granted via the mailing of a decision on

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[2] See MPEP § 710.02(e)(III).
[3] See 37 C.F.R. § 1.211(e).

September 28, 2010 (not September 27, 2010, as indicated in the PTA Calculations), which is three months and 417 (not 416) days later. A reduction of 416 was erroneously entered pursuant to 37 C.F.R. § 1.704(c)(3)(i), when the proper reduction that is warranted is 417 days.

The issue fee was submitted on September 1, 2010, which is three months and 390 days after the mailing of the notice of allowance on May 7, 2009. Therefore, the Office accorded a reduction of 390 days, pursuant to 37 C.F.R. § 1.704(b).

Patentee disputes the 390-day reduction, as the entire period overlaps with the reduction accorded pursuant to 37 C.F.R. § 1.704(c)(3)(i).

The Office agrees, however the period of Patent Term Adjustment remains zero. A discussion follows.

The total period of examination delay is 331 days.

The total period of applicant delay is 447 (30 + 417) days.

The patent issued three years and 442 days after the application was filed. As such, the period of examination delay pursuant to 37 C.F.R. § 1.703(b) totals 442, and runs from August 18, 2009 (the day after the three-year anniversary of the filing date) until November 2, 2010 (the date of issuance). However 407 days of the 417-day period overlap with the period of B-delay (August 18, 2009 - September 28, 2010). This period is not included in the B-delay, and as such the B-delay totals 35 days, the period from September 29, 2010 - November 2, 2010.

It follows that the patent term adjustment totals 331 examination delay minus 447 applicant delay plus 35 B-delay, which totals zero days, not 327 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

As the patent issued with the correct patent term adjustment, a certificate of correction is not required.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski,

and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[4] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[5] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[6] (571) 273-8300: please note this is a central facsimile number.
[7] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/30/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No 11/506,585 7879840

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1624 **Art Unit**

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SEP 20 2010

OFFICE OF PETITIONS

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
12275 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

In re Application of	:	
Liu et al.	:	DECISION ON PETITION
Application No. 11/506,593	:	TO WITHDRAW
Filed: August 18, 2006	:	FROM RECORD
Attorney Docket No. 12MN-125019	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2010.

The request is **NOT APPROVED.**

Petitioner is reminded that the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

While the Office recognizes that the petitioner made the required certifications, the request still cannot be approved. In view of the above, the proper party must specified for the change of correspondence address.

There is an outstanding Office action mailed April 27, 2010, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOMBLE CARLYLE SANDRIDGE & RICE LLP
ATTN: IP DOCKETING
PO BOX 7037
ATLANTA GA 30357-0037

MAILED

NOV 14 2011

OFFICE OF PETITIONS

In re Application of :
Gore, et al. :
Application No. 11/506,654 : ON PETITION
Filed: August 18, 2006 :
Attorney Docket NO. A202 10120.1 :
:

This is a decision on the petition to revive under 37 CFR 1.137(a), filed October 26, 2011.

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 fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to non-final Office action, mailed December 1, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received and no extensions having been purchased, the application became abandoned on March 2, 2011. The Office mailed a courtesy Notice of Abandonment on June 21, 2011.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (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 this paragraph was unavoidable. The instant petition lacks item (3).

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."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the December 1, 2010 Office action.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[3] 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

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[1] In re Mattulath, 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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

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.[4]

Here, petitioner has not submitted a copy of the firm's master docket report, showing all of the firm's replies docketed for a due date of March 1, 2011. Rather, petitioner has only submitted a copy of a print-out showing the prosecution history for the instant application. This is acceptable only in that event that petitioner does not keep a master docket, and states such for the record.

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 related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[4] Id (emphasis added).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTN: IP DOCKETING
PO BOX 7037
ATLANTA GA 30357-0037

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OFFICE OF PETITIONS

In re Application of :
Gore, et al. :
Application No. 11/506,654 : ON PETITION
Filed: August 18, 2006 :
Attorney Docket NO. A202 10120.1 :
:

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed December 9, 2011.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to non-final Office action, mailed December 1, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received and no extensions having been purchased, the application became abandoned on March 2, 2011. The Office mailed a courtesy Notice of Abandonment on June 21, 2011. Applicants filed a petition to revive under 37 CFR 1.137(a) on October 26, 2011. However, the petition was dismissed in a decision mailed on November 14, 2011.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (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 this paragraph was unavoidable.

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."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regard to item (3), petitioner states that he did not receive the December 1, 2010 Office action.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[3] 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.[4]

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[1] In re Mattulath, 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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] Id (emphasis added).

With the instant renewed petition, petitioner has submitted a copy of the firm's master docket report, showing all of the firm's replies docketed for a due date of March 1, 2011. An entry for the instant application does not appear, supporting the conclusion that the December 1, 2010 Office action was not received.

The application is being forwarded to Group Art Unit 3634 for consideration of the Amendment, filed October 26, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of :
Harald GOSSNER, et *al.* :
Application No. 11/506,683 : DECISION GRANTING PETITION
Filed: August 18, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10808-359** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 October 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 2826 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.*

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 042390.P24166	Patent Number: 7,668,945
Filing Date (or 371(b) or (f) Date): 08-18-2006	Issue Date: 02-23-2010
First Named Inventor: Mark S. Doran	
Title: NETWORK BOOTING USING A PLATFORM MANAGEMENT COPROCESSOR	

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 /Shireen Irani Bacon/	Date July 14, 2010
Name (Print/Typed) Shireen Irani Bacon	Registration Number 40,494

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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.

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 042390.P24166	Patent Number: 7,668,945
Filing Date (or 371(b) or (f) Date): 08-18-2006	Issue Date: 02-23-2010
First Named Inventor: Mark S. Doran	
Title: NETWORK BOOTING USING A PLATFORM MANAGEMENT COPROCESSOR	

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 /Shireen Irani Bacon/	Date July 14, 2010
Name (Print/Typed) Shireen Irani Bacon	Registration Number 40,494

***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.**

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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).

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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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/26/2010

Applicant	: Mark S. Doran	: DECISION ON REQUEST FOR
Patent Number	: 7668945	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/506,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **691** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/506,870	08/21/2006	Ilia Ovsiannikov	M4065.1316/P1316	9024

7590 06/16/2011

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

EXAMINER	
SELBY, GEVELL V	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
06/16/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 16, 2011

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON DC 20006

In re Application of	:	
Ilia Ovsiannikov	:	**DECISION ON PETITION**
Application No. 11506870	:	
Filed: 8/21/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. M4065.1316/P1316	:	***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) August 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.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Pilcher et al.	:	DECISION ON PETITION
Application No. 11/506,908	:	TO WITHDRAW
Filed: August 21, 2006	:	FROM RECORD
Attorney Docket No. VTX002-US-CON	:	

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 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 Martin R. Bader on behalf of all attorneys/agents of record who are associated with Customer Number 36183. All attorneys/agents associated with Customer Number 36183 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee, VTech Communications Limited, at the address indicated below.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: VTECH COMMUNICATIONS LIMITED
23/F TAI PING INDUSTRIAL CENTRE
BLOCK 1, 57 TING KOK ROAD
TAI PO, N.T. HK HONG KONG

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/11/2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/506964 Patent No.: 7855698 B2

CofC mailroom date: 9/19/2011

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: _____

APPROVED
By aeisen at 10:37 am, Nov 07, 2011

/ALEXANDER EISEN/ — **SPE**

2629 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
SEP 15 2011
OFFICE OF PETITIONS

THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON TX 77057

In re Application of :
Gerald B. EATON et al. : ON PETITION
Application No. 11/507,271 :
Filed: August 21, 2006 :
Atty. Docket No.: MPC-06

This is in response to the petition under 37 CFR 1.137(b), filed August 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 non-final Office action mailed May 28, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.137(b) was obtained. The application became abandoned August 29, 2009. A Notice of Abandonment was mailed April 6, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the non-final Office action, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the non-final Office action is accepted as having been unintentionally delayed.

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.
Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

This application is being referred to the Technology Center Art Unit 1796 for consideration of the filed Response.

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-26-11

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction for Appl. No.: 11507279 Patent No.: 7814990

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 3676
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

NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application: :
Chiu-Chih Chiang et al. :
Application No. 11/507,293 : NOTICE
Filed: August 21, 2006 :
Attorney Docket No. 43773/100 (SGCX-00441US) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 15, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to the Office of Patent Publication.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Patent No: 7,318,517
Issued: January 15, 2008
Application No. 11/507,320
Filed: August 21, 2006
Attorney Docket No. R&P-LO-034

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 2, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, that part of the petition that is directed to the deficiency payment is not signed by the proper party. Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Additionally, the address given on the request differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the request; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: A J PEACH
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Patent No. 7,887,890 :
Issue Date: August 21, 2006 :
Application No. 11/507,352 : DECISION ON PETITION
Filed: February 15, 2011 :
Attorney Docket No. CMT0134US :

This is a decision on the petition, filed, May 12, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) 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 "LG Life Sciences, Ltd. (KR)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. 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 "LG Life Sciences, Ltd. (KR)" 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

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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LUCIEN C. DUCRET
392 PACIFIC STREET
STAMFORD CT 06902

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Lucien C. DUCRET	:	
Application No. 11/507,393	:	DECISION ON PETITION
Filed: August 22, 2006	:	
Attorney Docket No. ST 008	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 10, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and election, (2) the petition fee of $810; 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.

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: KATESHOV
174 FERNDALE ROAD
SCARSDALE, NY 10583

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.
11/507,531	08/22/2006	Kab Jin Hwang	1630-0335PUS1	1511

2292 7590 08/12/2010
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
PAYNE, SHARON E	

ART UNIT	PAPER NUMBER
2875	

NOTIFICATION DATE	DELIVERY MODE
08/12/2010	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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Birch Stewart Kolasch & Birch
PO Box 747
Falls Church, VA 22040-0747

In re Application of: Kab Jin HWANG	:	
Application No. 11/507,531	:	PETITION TO
Filed : August 22, 2006	:	ACCEPT COLOR
Attorney Docket No. :	:	DRAWINGS
1630-0335PUS1	:	

Applicant has filed a petition to submit color drawings under 37 CFR 1.84. The color drawings are necessary as they are the only practical medium by which the subject matter of the present invention can be disclosed.

The petition is **granted**.

Telephone inquires should be directed to Sandra L. O'Shea at (571) 272-2378.

Sandra L. O'Shea, Supervisory Patent Examiner
Art Unit 2875, Illumination
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :
BRIDGER :
Application No. 11/507,717 : DECISION ON PETITION
Filed: August 21, 2006 : TO WITHDRAW
Attorney Docket No. 20073.00US : 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 4, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Kate H. Murashige and the attorneys associated with Customer No. 25225, has been revoked by the assignee of the patent application on May 13, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future correspondence from the Office will continued to be forwarded to the above-identified address until other properly notified.

Telephone inquires concerning this decision should be directed to undersigned at (571) 272- 6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: GENZYME CORPORATION
153 SECOND AVE
WALTHAM MA 02451

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DANIEL R. ALLEMEIER
22639 FEDEREALIST ROAD
CALABASAS, CA 91302

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Michael J. Florman :
Application No. 11/507,728 : DECISION ON PETITION
Filed: August 22, 2006 : TO WITHDRAW
Attorney Docket No. MFMZ 2 00012 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **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 Daniel R. Allemeier on behalf of himself. All attorneys/agents associated with this application 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 19, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL J. FLORMAN
10582 WEST PICO BOULEVARD
LOS ANGELES, CA 90064

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/507,728	08/22/2006	Michael J. Florman	MFMZ 2 00012

CONFIRMATION NO. 1843

POWER OF ATTORNEY NOTICE

Daniel R. Allemeier
22639 Federalist Road
Calabasas, CA 91302

OC000000043968483

Date Mailed: 10/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/10/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DANIEL R. ALLEMEIER, SR
22639 FEDERALIST ROAD
CALABASAS CA 91302-4708

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of
Michael J. Florman :
Application No. 11/507,757 : ON PETITION
Filed: August 22, 2006 :
Attorney Docket Number: MFMZ 2 00005 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 17, 2010 and supplemented on June 10, 2010, to revive the above identified application.

The petition is **GRANTED**.

A Final Office Action was mailed November 21, 2008. A response filed May 21, 2009 with a three month extension of time included a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application became abandoned for failure to timely reply to the Notice of Informal or Non-responsive amendment, mailed June 8, 2009. A Notice of Abandonment was mailed April 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment as the 37 CFR 1.114 submission to the previously filed Request for Continued Examination ; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of June 8, 2009 is accepted as having been unintentionally delayed.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Also, the address shown on the petition differs from the address of record. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, without mentioning the fact that an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). A courtesy copy of this decision is being mailed to the address found on the petition but in the future, dual correspondences will not be mailed.

This matter is being referred back to Technology Center 3732 for consideration of the amendment filed with the instant petition and the RCE filed May 21, 2009.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

DANIEL R. ALLMEIER
22050 CALVERT STREET, #16
WOODLAND HILLS, CA 91367

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DANIEL R. ALLEMEIER
22639 FEDEREALIST ROAD
CALABASAS, CA 91302

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of
Michael J. Florman
Application No. 11/507,757
Filed: August 22, 2006
Attorney Docket No. MFMZ 2 00005

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **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 Daniel R. Allemeier on behalf of himself. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL J. FLORMAN
10582 WEST PICO BOULEVARD
LOS ANGELES, CA 90064

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/507,757	08/22/2006	Michael J. Florman	MFMZ 2 00005

CONFIRMATION NO. 1703

POWER OF ATTORNEY NOTICE

DANIEL R. ALLEMEIER, SR
22639 FEDERALIST ROAD
CALABASAS, CA 91302-4708

Date Mailed: 10/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/10/2010.

- 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.

/pflewis/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FISH & RICHARDSON P.C. (SD)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Shaiw-Rong Liu :
Application No. 11/507,928 : DECISION ON PETITION
Filed: August 21, 2006 : TO WITHDRAW
Attorney Docket No. 14791-0006001 : 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 31, 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 William E. Hunter on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Worldwide Strategy Holdings Limited
570 Nathan Road, Suite #138
Kowloon, Hong Kong

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
11/507,928	08/21/2006	Shaiw-Rong Scott Liu	14791-0006001

CONFIRMATION NO. 9515

20985
FISH & RICHARDSON P.C. (SD)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

POWER OF ATTORNEY NOTICE

OC000000044083581

Date Mailed: 10/20/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, Edward K.Y. et al. :
Application No. 11/507,953 : DECISION ON PETITION
Filed: August 21, 2006 : TO WITHDRAW
Attorney Docket No. **QQ1- 0203US** : 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 9, 2010

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/507959 -: 7752247

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Magdalene Talley

_____
Certificates of Correction Branch
(571)272-0XXX

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

LEWIS A. BULLOCK JR
SUPERVISORY PATENT EXAMINER

SPE _____ **Art Unit** 2193

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas Swenson
1118 13th Street
A-5
BOULDER CO 80302

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,752,247 :
Issue Date: July 6, 2010 :
Application No. 11/507,959 : NOTICE
Filed: August 21, 2006 :
Attorney Docket No. 108.102D3US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 10, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

DANIEL R. ALLEMEIER
22639 FEDEREALIST ROAD
CALABASAS, CA 91302

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of
Michael J. Florman
Application No. 11/507,970
Filed: August 22, 2006
Attorney Docket No. MFMZ 2 00016

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

The request is **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 Daniel R. Allemeier on behalf of himself. All attorneys/agents associated with this application 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 16, 2010 that requires a reply by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL J. FLORMAN
10582 WEST PICO BOULEVARD
LOS ANGELES, CA 90064

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/507,970	08/22/2006	Michael J. Florman	MFMZ 2 00016

CONFIRMATION NO. 1990

POWER OF ATTORNEY NOTICE

Daniel R. Allemeier SR
22639 Federalist Road
Calabasas, CA 91302-4708

OC000000043969713

Date Mailed: 10/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/10/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/25/10 **Paper No.:** —

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/508022 Patent No.: 7751100 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes are appropriate.

C.Lee

/Mark Zimmerman/ 2625

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/25/11

TO SPE OF : ART UNIT: 1722 Attn: KELLY CYNTHIA H (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/508074 Patent No.: 7879526

CofC mailroom date: 08/16/11

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: Please check the Specifications For Comparative Example 2

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Cynthia H Kelly — SPE

SPE 1722 — Art Unit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/508,192	08/23/2006	Jean-Pierre Mercat	P30403	1731

7055 7590 11/24/2010

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
KOTTER, KIP T	
ART UNIT	PAPER NUMBER
3617	

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):

gbpatent@gbpatent.com
pto@gbpatent.com

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NOV 23 2010

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of MERCAT ET AL.
Appl. No.: 11/508,192
Filed: August 23, 2006
For: Wheel With Tension Spokes

DECISION ON PETITON FOR SUPERVISORY REVIEW
37 CFR 1.181

This is a decision on the petition filed August 30, 2010 for supervisory review of an examiner's action under 37 CFR 1.181. Petitioner requests the relief of withdrawal of the Final Rejection as premature.

The petition is **Dismissed**.

Petitioner asserts that the Final Rejection mailed May 28, 2010 was premature, in that it included a new ground of rejection that was not necessitated by amendment. As evidence of this, petitioner notes that independent claims 1 and 23 were rejected by a new ground of rejection not included in the initial Office action, namely a rejection under 35 USC 103 using Addink in view of Chalk. The Chalk reference was newly cited. Petitioner asserts that since these claims were rejected over the new combination but unamended, the new ground of rejection of these claims could not be necessitated by petitioner's amendment. This argument is unpersuasive for the reasons set forth below.

As correctly cited by petitioner, MPEP 706.07(a) states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Since there was no information disclosure statement filed, the over-riding consideration in determining the propriety of the Final Rejection is whether the new ground of rejection

utilizing the newly cited Chalk reference was necessitated by petitioner's amendment. While it is normally true that, on it's face, a new rejection of an unamended claim would *usually* be evidence of a premature Final Rejection absent other considerations, there is no per se rule to that effect in MPEP 706.07(a). The over-riding rule as set forth by MPEP 706.07(a) is whether the new ground of rejection of the claims was necessitated by petitioner's amendment.

In analyzing the specific fact scenario of the instant application, a review of the file record indicates that claims 1-4, 9-13, 15, 17-21, 23-24 and 26 were rejected under 35 USC 103 over Addink in view of Stutsman in the non-final Office Action of December 22, 2009. In response to that Office Action, petitioner's amendment added new claims 27-35. Newly added claims 27 and 35 included new limitations, not previously claimed, which included "in a non-tensioned state, the spokes fastened to the first of the two flanges extend within a plane" (claim 27), and "in a non-tensioned state, the first set of spokes has a non-dished configuration" (claim 35). Neither of these *newly added limitations*, which were added *in response* to the non-final Office action of December 22, 2009, were taught by the existing modifying reference of Stutsman in the Addink and Stutsman combination. Consequently, the amendment adding these new limitations caused the examiner to apply a new combination of Addink in view of Chalk to claims 27 and 35. Clearly, since petitioner added new limitations to claims 27 and 35 that were not taught by the existing reference of Stutsman, the new rejection of claims 27 and 35 using Addink in view of Chalk was necessitated by petitioner's response to the non-final Office action. Furthermore, since claims 27and 35 are directly dependent on claims 1 and 23, even though claims 1 and 23 were not amended, their inclusion in the new rejection was necessary because one can not reject the dependent claims without rejecting the independent claims, since the dependent claims include each and every limitation of the independent claims. Assuming for the sake of argument that the examiner had only rejected dependent claims 27and 35 over the new combination of Addink in view of Chalk and not included independent claims 1 and 23, should petitioner appeal the case to the Board of Appeals and receive a reversal of the Addink in view of Stutsman combination, but an affirmance of the Addink in view of Chalk combination, the Office would be left with rejected dependent claims but non-rejected independent claims from which the rejected dependent claims depended; which is improper for claims that have the same effective filing date. Therefore, the examiner's inclusion of unamended independent claims 1 and 23 in the Addink in view of Chalk combination was appropriate, because newly added dependent claims 27 and 35 are directly dependent from claims 1 and 23, and include newly added limitations not taught by the existing Addink and Stutsman combination; thereby necessitating the new Addink and Chalk combination. Furthermore, an Addink in view of Stutsman and Chalk combination would not be appropriate, since the inclusion of Stutsman in the rejection would be duplicative for these particular claims.

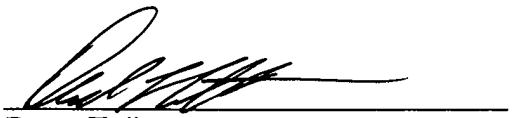
In further reviewing the record, it is important to note that the examiner did not use the newly added claims as an excuse to switch rejections from the Addink and Stutsman combination to the Addink and Chalk combination, but instead maintained the original Addink and Stutsman combination for the originally rejected claims. The only non-

amended claims included in the new Addink and Chalk combination were claims 1 and 23, which for the reasons set forth above, had to be included because the new limitations of directly dependent claims 27 and 35 necessitated the application of Chalk. The record clearly shows that the examiner held that the Addink and Stutsman combination was the best rejection for claims 1 and 23 at the time of the non-final Office action and at the time of the Final Rejection, by virtue of the fact that the examiner maintained this original combination throughout, and only included independent claims 1 and 23 in the new combination because of the newly added limitations to directly dependent claims 27 and 35 for which the newly added Chalk reference was required.

For the reasons set forth above, the record indicates that the new ground of rejection of the claims was in fact necessitated by newly added limitations by petitioner in response to the non-final Office Action within the meaning of MPEP 706.07(a), and therefore the Final Rejection was proper and not premature.

Petitioner is reminded that the filing of a Petition under 37 CFR 1.181 seeking supervisory review of an Office Action does not stay prosecution. Consequently, the period for response to the Final Rejection continues to run from the May 28, 2010 mailing date of the Final Rejection.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination related issues should be directed to the examiner of record, Kip T. Kotter, at (571) 272-7953.



Dave Talbott
Director, Technology Center 3600
(571) 272-5150

SJM/SMN: 11/9/10

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DENNEMEYER & CO. LUXEMBOURG
P.O. BOX 1502
L - 1015
LUXEMBOURG LU LUXEMBOURG

MAILED
OCT 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Roman Rapp, et al.	:	
Application No. 11/508,228	:	DECISION DISMISSING PETITION
Filed: August 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07781.0278-00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 1, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until October 1, 2010. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

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 should be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **SAP/FINNEGAN HENDERSON LLP**
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCIHEAD Patent Agent Co., Ltd.
Room 1508, Huihua Trading Building
No. 80, Mid-Xianlie Road
Guangzhou City
Guangdong Province 51007-0 CN **CHINA**

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Application of :
Cen Liefang, et. al. :
Application No. 11/508,250 : ON PETITION
Filed: August 23, 2006 :
Attorney Docket No. 95064 :

This is a decision on the petition under 37 CFR 1.137(a) filed July 16, 2010, to revive the above-identified application.

The petition is **dismissed**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $270. If this application is no longer entitled to small entity status, the petition fee required by law is $540.

Since the present petition was not accompanied by the required $270 petition fee, no consideration on the merits can be given to the present petition until the required fee is 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

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX, VA 22033

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Cen Liefang, et. al. :
Application No. 11/508,250 : ON PETITION
Filed: August 23, 2006 :
Attorney Docket No. 95064 :

This is a decision on the renewed petition under 37 CFR 1.137(a) filed February 2, 2011, to revive the above-identified application.

This application became abandoned failure to respond to the Office action mailed March 29, 2010. A Notice of Abandonment was mailed on May 14, 2010.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The present petition lacks item (3).

With respect to item (3), petitioner asserts "...the receipt of "Detailed action"(May 12, 2010) was too late to reply timely by the date Apr. 29, 2010-30days from its mailed date March 28th, 2009, therefore, the abandonment was "unavoidable" to the applicants." However, the evidence presented on July 16, 2010 is illegible. Therefore, petitioner should resubmit a copy of the envelope, in which he alleges, was received too late for a reply to the Office action.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner should also note that he has an alternate remedy under the unintentional provisions of 37 CFR 1.137(b) which does not require a showing of the delay in timely responding to the Notice mailed July 15, 2008 and December 19, 2008. However, effective October 2, 2008, an unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee. A courtesy copy of a Petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition." 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 Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

Enclosure: Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b) – (Form PTO/SB/64)

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4000 Legato Road
Suite 310
FAIRFAX, VA 22033

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of :
Cen Liefang, et. al. :
Application No. 11/508,250 : ON PETITION
Filed: August 23, 2006 :
Attorney Docket No. 95064 :

This is a decision on the renewed petition under 37 CFR 1.137(a) filed May 31, 2011, to revive the above-identified application.

The renewed petition is again **DISMISSED**.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The present petition lacks item (3).

With regard to item (3) above, the decision mailed March 28, 2011, advised petitioner to submit a legible copy of the envelope to establish that the Office action was received too late to file a reply. In response to the decision mailed March 28, 2011, petitioner submits the present renewed petition in which petitioner implies that a statement from Liefang Cen will assert that the original date-stamped envelope was received on May 12, 2010, which was too late to file a response to the Office action.

While petitioner attempted to submit a copy of the date stamped envelope as evidence to show that the Office action was received too late to reply, the date stamp on the envelope is illegible. Thus, 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).

Since a review of the record shows that the applicants were pro-se at the time the Office action of March 29, 2010 was mailed, the Office understands that they may not keep a formal docket record system for their correspondence. However, applicants may have relief if they are able to provide some sort of showing explaining the manner in which they receive mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, applicants must explain the system for keeping track of patent matters - where they keep the correspondence; where they write down due dates; how they know replies are due, etc. Applicants should include any available documentary evidence of the mail received, covering a reasonable period after March 29, 2010, to demonstrate that the Office action was received after the one month period for reply. Applicants should also provide the USPTO with copies of any records or other methods used for keeping track of mailings from the USPTO. Applicants should explain where they would have entered the receipt date of the Office action had they received it timely (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available.

ALTERNATIVE VENUE

If petitioner is unable to provide the necessary evidence to establish that the Office action was received too late to timely file a response, petitioner should consider filing a petition under 37 CFR 1.137(b).

Petitioner should note that the effective September 26, 2011, an unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $930 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

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4000 Legato Road
Suite 310
FAIRFAX, VA 22033

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NOV 30 2011

OFFICE OF PETITIONS

In re Application of :
Cen Liefang, et. al. :
Application No. 11/508,250 : ON PETITION
Filed: August 23, 2006 :
Attorney Docket No. 95064 :

This is a decision on the petition under 37 CFR 1.137(b) filed November 17, 2011, to revive the above-identified application.

In response to the decision under 37 CFR 1.137(a) mailed September 27, 2011, petitioner submits the present petition along with the petition fee of $930. Since the petition satisfies the requirements of 37 CFR 1.137(b), the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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DEC 14 2010

OFFICE OF PETITIONS

In re Application of :
Zhao et al. :
Application No. 11/508,507 :
Filed: August 23, 2006 :
Attorney Docket No. :
213.1228.CIP2 :
For: METHODS OF PREPARING :
POLYMERS HAVING TERMINAL AMINE :
GROUPS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)" filed November 5, 2010. Applicant requests that the determination of patent term adjustment be corrected from five hundred ninety-two (592) days to eight hundred seventy-seven (877) days.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §

1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

notice of allowance, the application for patent term adjustment is **DISMISSED** to the extent indicated herein.

On August 9, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 592 days. The instant application for patent term adjustment was timely filed on November 5, 2010.

Applicant states that a 78-day reduction for the submission of the request for continued examination (RCE) on July 30, 2010 in response to the April 7, 2010 final rejection is required.

The Office has considered applicant's argument but does not find it persuasive. The Office has concluded that the reduction of 23 days, not 78 days was properly entered based on 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 23 days for the submission of reply (RCE) on July 30, 2010 is warranted. The PTA was properly reduced by 23 days, the number of days in excess of three months that was taken to reply to the April 7, 2010 Office action. Pursuant to 37 CFR 1.704(b), a reduction of 23 days is required for applicants' delay for the period beginning July 8, 2010, the day after the date that is three months after the mailing of the final Office action and ending on July 30, 2010, the date the reply in compliance with 37 CFR 1.113(c) was filed.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance is five hundred ninety-two **(592)** days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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	11508551
Filing Date	23-Aug-2006
First Named Inventor	David Michael
Art Unit	2624
Examiner Name	ELISA RICE
Attorney Docket Number	C06-009
Title	METHOD AND APPARATUS FOR SEMICONDUCTOR WAFER ALIGNMENT

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	/David J. Powsner/
Name	David J. Powsner
Registration Number	31868

UNITED STATES 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 2,2011

In re Application of :

David Michael

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11508551

Filed : 23-Aug-2006

Attorney Docket No : C06-009

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed November 2,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2624 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, et al :
Application No. 11/508,554 : DECISION ON PETITION
Filed: August 22, 2006 : TO WITHDRAW
Attorney Docket No. QQ1-0163US : 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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United States Patent and Trademark Office
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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Application of :
Gary M. Blankenship et al. :
Application No. 11/508,559 : DECISION ON PETITION
Filed: August 22, 2006 :
Attorney Docket No. CNC.301CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed February 2, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 3, 2010. A Notice of Abandonment was mailed on August 18, 2010

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election , (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the election 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 3751 for appropriate action by the Examiner in the normal course of business on the reply received March 2, 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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SQUIRE, SANDERS & DEMPSEY LLP
275 BATTERY STREET, SUITE 2600
SAN FRANCISCO, CA 94111-3356

Mail Date: 08/05/2010

Applicant	: Lyudmila Kokish	: DECISION ON REQUEST FOR
Patent Number	: 7658966	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/508,609	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **362** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAILED Paper No.
AUG 30 2010
OFFICE OF PETITIONS

Celanese International Corporation
MARTIN CONNAUGHTON
9502 BAYPORT BLVD.
CLEAR LAKE TECHNICAL CENTER
PASADENA TX 77507

In re Application of	:	
Scates et al.	:	
Application No. 11/508,775	:	DECISION ON PETITION
Filed: August 23, 2006	:	PURSUANT TO
Attorney Docket No.: 7212-DIV-4	:	37 C.F.R. § 1.137(B)
Title: INTEGRATED PROCESS FOR PRODUCING CARBONYLATION ACETIC ACID, ACETIC ANHYDRIDE, OR COPRODUCTION OF EACH FROM A METHYL ACETATE BY-PRODUCT STREAM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 29, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 22, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on April 23, 2010. A Notice of Abandonment was mailed on May 5, 2010, subsequent to the filing of this petition.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

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.

The $1620 fee that is associated with the filing of this petition will be charged to Deposit Account No. 08-2454 in due course, as authorized on the second page of this petition.

With this petition, Applicant has submitted the issue and publication fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other

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

inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Costello Law Corporation
331 J STREET, SUITE 200
SACRAMENTO CA 95814

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of :
Tandy et al. :
Application No. 11/509,098 : ON PETITION
Filed: August 23, 2006 :
Attorney Docket No. 2006-105A :
For: REFRIGERATION TEMPERATURE MONITORING SYSTEM AND ASSOCIATED TEMPERATURE DISPLAY

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2011, to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action, mailed March 10, 2010, which set an extendable three month period for reply. Applicants submitted an amendment after final and a petition for a three month extension of time and required $555.00 fee on August 30, 2010. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the September 15, 2010 Advisory action. Accordingly, this application became abandoned on September 11, 2010. A Notice of Abandonment was mailed on March 14, 2011.

Applicants have submitted a RCE and $405.00 required fee and an amendment as the submission in reply to the March 10, 2010 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 10, 2010 final Office action, and the $810.00 petition fee.

The petition is **GRANTED**.

This application is being referred to Technology Center AU 2855 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :
Christian Michel Blandin, et al. :
Application No. 11/509,116 : ON PETITION
Filed: August 23, 2006 :
Attorney Docket No.: 09623C-061310US :

This is a decision on the petition, filed September 9, 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 respond to the Office action of November 17, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 17, 2010; however, the maximum statutory period for response ended on May 17, 2010.

Petitioner indicates that a timely reply was mailed using a certificate of mailing dated May 17, 2010. Petitioner submits a copy of the previously mailed correspondence, including a transmittal letter bearing a certificate of mailing dated May 17, 2010, an amendment and a 3-month petition for extension of time. Petitioner also submitted a copy of the return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on June 4, 2010 of, *inter alia,* Transmittal Form, Petition for Extension of Time and Amendment.

A review of the written record confirms that an amendment, including an appropriate 3-month extension of time, was filed on June 4, 2010, using a Certificate of Mailing under 37 CFR 1.8 dated May 17, 2010, as it is present in the file. Accordingly, the amendment was timely received in the USPTO and no abandonment existed.

The holding of abandonment for failure to timely file a response to the Office action of November 17, 2009 is withdrawn and the application is restored to pending status. The Notice of Abandonment mailed June 7, 2010 is hereby vacated.

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 June 4, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
Christian Michel Blandin, et al. :
Application No. 11/509,116 : DECISION ON PETITION
Filed: August 23, 2006 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 09623C-061310US :

This is a decision on the petition, filed May 11, 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 August 23, 2007. 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 September 22, 2011 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center Art Unit 2629 for examination in due course.

/Terri Johnson/
Terri Johnson
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/509,116	08/23/2006	Christian Michel Blandin	09623C-061310US

CONFIRMATION NO. 3911

20350
KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

NONPUBLICATION RESCISSION LETTER

Date Mailed: 06/17/2011

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 09/22/2011.

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".

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/509,120	08/23/2006	Jack Bertram Coronel	CORONEL06-01	3908

52396 7590 08/08/2011

ROBERT RYAN MORISHITA
MORISHITA LAW FIRM, LLC
8960 WEST TROPICANA AVENUE
SUITE 300
LAS VEGAS, NV 89147

EXAMINER	
LI, WEI	

ART UNIT	PAPER NUMBER
3718	

MAIL DATE	DELIVERY MODE
08/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/509,120	23 August 2006	CORONEL, JACK BERTRAM	CORONEL06-01

ROBERT RYAN MORISHITA
MORISHITA LAW FIRM, LLC
8960 WEST TROPICANA AVENUE
SUITE 300
LAS VEGAS, NV 89147

EXAMINER	
HENRY YUEN	
ART UNIT	**PAPER**
3742	20110805

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This is to acknowledge the recipt of the Request to withdrawal the petition filed on July 27, 2011. The request has been entered and granetd. The petition filed on June 27, 2011 has beeen withdrawn. The application is now being forwarded to the exmaienr for consideration of the repsonse filed on July 27, 2011.

/Henry Yuen/ 8/5/11
Supervisory Patent Examiner, Art Unit 3742

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SEAGATE TECHNOLOGY LLC
C/O MURABITO, HAO & BARNES LLP
Two North Market Street
Third Floor
San Jose CA 95113

In re Application of

Parsoneault, et al.

Application No. 11/509,220

Filed: August 23, 2006

Attorney Docket No. **STL3783**

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed February 2, 2012.

The petition is **granted**.

This application was held abandoned April 7, 2011, after no reply was received to the non-final Office action mailed January 6, 2011. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on April 7, 2011. A Notice of Abandonment was mailed August 1, 2011. The instant petition was filed on February 2, 2011. Petitioner maintains that the notice of January 6, 2011, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner

> where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center, GAU 3656 for further processing that will include re-mailing the non-final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

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SEP 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,708,863 :
Issue Date : May 4, 2010 :
Application No. 11/509,268 : DECISION ON PETITION
Filed: August 24, 2006 :
Attorney Docket No. RAYT-23 :

This is a decision on the Petition For Expungement of Assignment Under MPEP 323.01(d), filed August 4, 2011, which is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified application.

The petition is **granted**.

Petitioner indicates that sections of the Contributions and Purchase Agreement are proprietary but were inadvertently provided on an assignment document associated with the above-identified application. Petitioner requests that this original document containing the sensitive proprietary information be expunged. A copy of this assignment document that redacts the proprietary information without disturbing the remainder of the document's contents was recorded at reel 026819 frame 0307 to replace the original document.

While, as noted in MPEP 323, the USPTO will not normally remove a recorded document but instead records supplemental correcting documents, the sensitive nature of the proprietary information in question justifies the requested expungement. Since the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief and the integrity of the assignment records will not be affected by granting the petition due to the presence of the newly recorded redacted copy, the requested expungement is granted.

The fee for a petitioner filed under 37 CFR 1.182 has been charged to petitioner's deposit account as authorized.

The relief will be effected as follows:

(1) the USPTO will remove any and all reference "pointers" in its relevant systems to the agreement recorded at reel 023409 frame 0414, such that the agreement cannot be located by referencing any of the applications or patents associated with the above-identified application against which the agreement was formerly recorded;

(2) the copy of the assignment document that redacts the proprietary information, recorded at reel 026819 frame 0307, will be recognized as having a date of recordation of October 23, 2009, the date the original document was recorded; and

(3) the petition and decision associated with this expungement will be maintained in confidence separate from any application or patent file to protect the sensitive information, including the reel/frame numbers of the original document.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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MESCHKOW AND GRESHAM P.L.C.
7250 N. 16TH STREET
SUITE 318
PHOENIX, AZ 85020

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NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Rosenberg et al.	:	DECISION ON PETITION
Application No. 11/509,344	:	TO WITHDRAW
Filed: August 24, 2006	:	FROM RECORD
Attorney Docket No. 2006P00363US	:	
(S33.006)		

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 8, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney was revoked by the assignee of the patent application on October 28, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: SAP AG c/o BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN CT 06840

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.
11/509,359	08/24/2006	Cathy Belk	12827.105001	4551

20786 7590 06/03/2011

KING & SPALDING
1180 PEACHTREE STREET , NE
ATLANTA, GA 30309-3521

EXAMINER	
PUROL, SARAH L	
ART UNIT	PAPER NUMBER
3637	
MAIL DATE	DELIVERY MODE
06/03/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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JUN 03 2011

King & Spalding
1180 Peachtree Street, NE
Atlanta, GA, 30309-3521

In re application of
Cathy Belk et al.
Application No. 11/509,359
Filed: August 24, 2006
For: METHOD AND APPARATUS FOR MARKETING GREETING CARDS IN DISPLAY FIXTURES

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on August 24, 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 deciding this petition is sincerely 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 in accordance with 37 CFR 1.111 (b) and (c).

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.**

Steven N. Meyers
Quality Assurance Specialist
Technology Center 3600
(571) 272-6611

SNM/snm: 5/22/11

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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AUG 3 0 2010

OFFICE OF PETITIONS

In re Application :
Groen, et al. :
Application No. 11/509,364 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: August 23, 2006 :
Dkt. No.: 37704-501001US :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 8, 2010.

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicants submit that the application is entitled to a patent term adjustment of 519 days, not 373 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed April 8, 2010. Applicants contest the reduction of 146 days under 37 CFR 1.704(c)(8) in connection with the supplemental reply filed April 1, 2010. Applicants assert that the supplemental reply was submitted at the request of the examiner, and, thus, is not a reduction within the meaning of 37 CFR 1.704(c)(8).

Applicants' arguments have been carefully reviewed and found persuasive. The record supports the assertion that the supplemental reply filed April 1, 2010 was submitted at the request of the examiner of record. In view thereof, the submission is not deemed, in this instance, to be a failure to engage in reasonable efforts to conclude prosecution or processing.

In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 519 days, as argued, (561 days of adjustment pursuant to 37 CFR 1.702 less 42 days of reduction pursuant to 37 CFR 1.704).

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).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 8/26/2010

PALM INTRANET

Time: 15:56:58

PTA Calculations for Application: 11/509364			
Application Filing Date:	08/23/2006	PTO Delay (PTO):	561
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	188
Post-Issue Petitions:	0	Total PTA (days):	519
PTO Delay Adjustment:	146		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	08/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	146		
45	04/08/2010	MAIL NOTICE OF ALLOWANCE	33		30
44	04/07/2010	ISSUE REVISION COMPLETED			
43	04/07/2010	DOCUMENT VERIFICATION			
42	04/07/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	04/07/2010	NOTICE OF ALLOWABILITY			
40	04/07/2010	DATE FORWARDED TO EXAMINER			
39	04/01/2010	SUPPLEMENTAL RESPONSE		146	30
35	03/30/2010	CASE DOCKETED TO EXAMINER IN GAU			
31	01/06/2010	DATE FORWARDED TO EXAMINER			
30	11/06/2009	RESPONSE AFTER NON-FINAL ACTION			
29	08/06/2009	MAIL NON-FINAL REJECTION			
28	07/20/2009	NON-FINAL REJECTION			
27	09/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	09/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	05/07/2009	DATE FORWARDED TO EXAMINER			
24	05/04/2009	RESPONSE TO ELECTION / RESTRICTION FILED			
23	04/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
22	04/03/2009	MAIL RESTRICTION REQUIREMENT	528		-1
21	03/30/2009	REQUIREMENT FOR RESTRICTION / ELECTION			
19	03/24/2009	CASE DOCKETED TO EXAMINER IN GAU			
18	09/25/2007	REFERENCE CAPTURE ON IDS			
17	09/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

15	08/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	05/03/2007	PG-PUB ISSUE NOTIFICATION			
13	02/17/2007	TRANSFER INQUIRY TO GAU			
12	02/05/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	01/24/2007	APPLICATION DISPATCHED FROM OIPE			
10	01/24/2007	APPLICATION IS NOW COMPLETE			
9	01/22/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC		42	4
8	01/22/2007	ADDITIONAL APPLICATION FILING FEES			
4	09/11/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/31/2006	CLEARED BY OIPE CSR			
2	08/30/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/23/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES 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. : **7655700**
Ser. No. **11/509455**
Inventor(s) : **JORDAN, CYNTHIA_**
Issued : **02/02/2010**
Title : **TRANSGENIC MOUSE MODEL AND METHODS FOR TREATMENT OF NEURO MUSCULAR DISEASE BY INTERFERING WITH ANDROGEN-ANDROGEN RECEPTOR INTERACTION IN SKELETAL MUSCLES**
Docket No. : **MIC 37 P-338**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

DOUGLAS H. SIEGEL
PRICE, HENEVELD, COOPER, DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

OL

UNITED STATES 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.

Lawrence A. Aaronson, P.C.
Lawrence A. Aaronson
12850 Highway 9
Suite #600 PMB 338
Alpharetta GA 30004

MAILED
FEB 15 2011
OFFICE OF PETITIONS

In re Application of :
Christopher Douglas Blair and :
Roger Louis Keenan :
Application No. 11/509,549 : DECISION ON PETITION
Filed: August 24, 2006 : PURSUANT TO
Attorney Docket No. 20284-0037006 : 37 C.F.R. § 1.183
Title: VOIP VOICE INTERACTION MONITOR :

This is in response to the May 13, 2010 "PETITION UNDER 37 C.F.R. § 1.183 IN SUPPORT OF FILING ON BEHALF OF NON-SIGNING INVENTOR IN A REISSUE APPLICATION," apparently for waiver of 37 C.F.R. §§ 1.63(a)(1), 1.172(a) and 1.175(a).

This petition is **DISMISSED.**

The present application is for the reissue of U.S. Patent number 6,757,361, which issued on June 29, 2004, from application number 10/073,966.

On August 24, 2006, the present reissue application was filed, listing Christopher Douglas Blair and Roger Louis Keenan as joint inventors. The application was deposited with a fully-executed reissue declaration. Petitioner has submitted this petition; seeking the entry of a partially executed supplemental reissue declaration (Mr. Keenan has not executed the same).

RELEVANT REGULATIONS AND PORTION OF THE MPEP

37 C.F.R. § 1.63(a)(1) sets forth, *in toto*:

(a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:
(1) Be executed, i.e., signed, in accordance with either § 1.66 or § 1.68. There is no minimum age for a person to be qualified to sign, but the person must be competent to sign, i.e., understand the document that the person is signing;

37 C.F.R. § 1.183 sets forth, *in toto*:

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).

37 C.F.R. § 1.172(a) sets forth, *in toto*:

(a) A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§ 1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of § 3.73(b) of this chapter.

37 C.F.R. § 1.175(a) sets forth, *in toto*:

(a) The reissue oath or declaration in addition to complying with the requirements of § 1.63, must also state that:
(1) The applicant believes the original patent to be wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, stating at least one error being relied upon as the basis for reissue; and
(2) All errors being corrected in the reissue application up to the time of filing of the oath or declaration under this paragraph arose without any deceptive intention on the part of the applicant.

ANALYSIS

This petition cannot be granted, as Petitioner has not asserted, much less established, the existence of an

extraordinary situation such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by each joint inventor.

On renewed petition, **Petitioner will need to assert the existence of an extraordinary situation, such that justice requires the waiver of the requirement that each joint inventor must execute the supplemental reissue declaration.**

Assuming arguendo that Petitioner has asserted the existence of an extraordinary situation such that justice requires the waiver of the requirement that the supplemental reissue declaration be executed by each joint inventor, this petition cannot be granted as the record does not support a finding that this assertion has been established. A discussion follows.

Petitioner has submitted, *inter alia*, the petition fee, the last known address of non-signing joint inventor Keenan, an affidavit, copies of several e-mails, and a supplemental reissue declaration that has been executed by the remaining joint inventor.

Receipt of the concurrently submitted statement under 37 C.F.R. § 3.73(b) and the written consent of the Assignee is acknowledged.

While Rule 1.47(a) is not directly applicable to the current set of facts, it does provide a similar method for rectifying situations involving the unavailability of legal representatives of a deceased joint inventor. As such, a Rule 1.47(a) analysis will be applied to determine whether an extraordinary situation is present, such that justice requires the waiver of 37 C.F.R. §§ 1.63(a)(1), 1.172(a) and 1.175(a). The applicable elements are as follows:

(1) a statement of the last known address of each non-signing inventor;
(2) either
    a) proof that a copy of the entire reissue application (specification, claims, drawings, and the supplemental reissue oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the reissue application or
    b) proof that each non-signing inventor cannot be found or reached after diligent

effort, and;

(3) a supplemental reissue declaration which complies with 37 C.F.R. §1.63.

Petitioner has met requirements (1) and (3) above. However, Petitioner has not met the second requirement, as will now be pointed out.

The record does not support a finding that a complete copy of the reissue application was sent to the last-known residential address of the non-signing inventor. Petitioner has established that on April 4, 2010, a "copy of the claims, as currently presented, along with a Supplemental Declaration and execution instructions" were sent to the non-signing inventor via e-mail.[1] On April 12, 2010, "a copy of the original patent on which this present re-issue application is based, and a red-lined version of the changes to the claims since the last time Mr. Keenan executed a Supplemental Declaration" were sent to the non-signing inventor via e-mail.[2] It is noted that a review of the e-mails from the non-signing inventor which were sent in response to these two communications has not revealed an express confirmation from the non-singing inventor that he was able to open and read these attachments.

The transmission of documents via e-mail, while a common practice, can be problematic. Transmission and receipt of documents - whether in image, word-processing, spreadsheet or other form - can be affected by differences in software generation between the sender and recipient(s), and other interferences include, but are not limited to, sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor that he has received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an e-mailed document was in a form that can be read and comprehended. On the other hand, if the documents are physically sent to Mr. Keenan, then there will be no doubt as to whether they are in a form that can be read and comprehended.

1 Aaronson affidavit, paragraph 2.
2 Id. at 5.

CONCLUSION

Before filing the renewed petition, Petitioner should mail a complete paper copy of the reissue application and a paper copy of the patent on which this reissue application is based 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.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.183." This is not a final agency action within the meaning of 5 U.S.C § 704. Any such renewed petition should indicate in a prominent manner that the attorney handling this matter is Senior Attorney Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile transmission (FAX).[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[7] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300: please note that this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BENNETT JONES LLP
3400 ONE FIRST CANADIAN PLACE
PO BOX 130
TORONTO ON M5X 1A4 CA CANADA

MAILED

NOV 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Jia-Lin Chin	:	
Application No.: 11/509571	:	DECISION ON
Filing or 371(c) Date: 08/25/2006	:	PETITION
Attorney Docket Number: 052277-00012	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181," filed October 25, 2011.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 27, 2011. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply to the Office action on March 17, 2011; however, the reply failed to place the application for allowance. Applicant was so notified in an Advisory Action mailed April 25, 2011. No complete and proper reply having been received, the application became abandoned on April 26, 2011. A Notice of Abandonment was mailed September 13, 2011.

Applicant files the present petition and asserts that a timely reply to the Office action to wit, a Request for Continued Examination ("RCE"), and an extension of time and fee, were filed in accordance with 37 CFR 1.8 on May 25, 2011. In support of this assertion, Applicant provides a copy of the reply. A review of the reply reveals that it includes a Certificate of Mailing Under 37 CFR 1.8, dated May 25, 2011. The Certificate of Mailing is executed by Petitioner herein (37 CFR 1.8(b)(3)).

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 or decided with prejudice, or the prosecution of a

reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), 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 that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicant has complied with the requirements of 37 CFR 1.8(b).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application is being referred to Technology Center Art Unit 3687 for processing of the copy of the RCE and submission filed with the present petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/28/11

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 11509618 Patent No.: 8014978

CofC mailroom date: 10/12/11

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
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 2 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: BOTH CHANGES APPROVED

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2123

Art Unit

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Goro FUJITA :
Application No. 11/509,802 : DECISION DISMISSING PETITION
Filed: August 25, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **065933-0298** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until after the Office had closed. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will therefore have not been charged to petitioner's deposit account.

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 the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 42P24381	Patent Number: 7,665,005
Filing Date (or 371(b) or (f) Date): 08-25-2006	Issue Date: 02-16-2010
First Named Inventor: Craig P. Szydlowski	
Title: IN SITU PROCESSOR MARGIN TESTING	

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 /Erik Metzger/	Date 7/8/10
Name (Print/Typed) Erik Metzger	Registration Number 53,320

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 09/03/2010

Applicant	: Craig P. Szydlowski	: DECISION ON REQUEST FOR
Patent Number	: 7665005	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/509,856	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **660** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW LLP / PULMONX 017534
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Antony J. Fields et al	:	
Application No. 11/509,871	:	DECISION ON PETITION
Filed: August 25, 2006	:	TO WITHDRAW
Attorney Docket No.: 017534-005420US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Brad J. Loos on behalf of the attorneys/agents associated with Customer Number 96352.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the Customer Number provided (20995) does not identify the intervening assignee of the entire interest or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20110603

DATE : 05-18-11

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/509886 Patent No.: 7893348

CofC mailroom date: 05-11-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE Art Unit 1725

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TOWNSEND AND TOWNSEND AND CREW, LLP (018563)
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
APR 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Chishti et al.	:	
Application No. 11/509,894	:	DECISION ON PETITION
Filed: August 24, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 018563-004830US	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 24, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide 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.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

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 3732 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100803

DATE : August 02, 2010

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7737999

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:

For claims 12 and 13, the requests for correction are approved. For claim 24, this claim number is not in the patented claims. The intended claim number was claim 23; therefore, this request for correction should be made to claim 23.

/KEE M TUNG/
Supervisory Patent Examiner.Art Unit 2628

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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3a59
NISKAYUNA, NY 12309

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Application of
Paul Takao Furuta et al
Application No. 11/509,965
Filed: August 25, 2006
Attorney Docket No. 199952-1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed July 28, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), 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) 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 applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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 1796 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.

/KOC/
Karen Creasy
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
11/509,965	08/25/2006	1796	1350	199952-1	27	3

CONFIRMATION NO. 5838

CORRECTED FILING RECEIPT

6147
GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3A59
NISKAYUNA, NY 12309

OC000000043804350

Date Mailed: 10/01/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Paul Takao Furuta, Niskayuna, NY;
Michael Joseph O'Brien, Clifton Park, NY;

Assignment For Published Patent Application

General Electric Company

Power of Attorney: The patent practitioners associated with Customer Number 006147

Domestic Priority data as claimed by applicant

This application is a CIP of 11/235,624 09/20/2005

Foreign Applications

If Required, Foreign Filing License Granted: 09/11/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/509,965**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Thermally curable compositions and method

Preliminary Class

528

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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Paper No.

MAILED

JUN 16 2011

OFFICE OF PETITIONS

HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

In re Application of :
Oosawa :
Application No. 11/509,972 : DECISION ON PETITION
Filed: August 25, 2006 : PURSUANT TO
Attorney Docket No.: : 37 C.F.R. § 1.137(B)
HJP920050130US1 :
Title: HEAD GIMBAL ASSEMBLY, :
SLIDER, AND METHOD OF :
MANUFACTUING A HEAD GIMBAL :
ASSEMBLY :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 7, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed September 2, 2010, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 3, 2010. A notice of abandonment was mailed on March 15, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an election of species, 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. The Technology Center's support staff will notify the Examiner of this decision, so that the election of species that was received on April 7, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/510,010	08/24/2006	Kevin J. Torek	MI22-3176	5634

21567 7590 01/07/2011

Wells St. John P.S.
601 W. 1st Street #1300
Spokane, WA 99201

EXAMINER	
EOFF, ANCA	
ART UNIT	PAPER NUMBER
1722	

MAIL DATE	DELIVERY MODE
01/07/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Wells St. John P.S.
601 W. 1st Street #1300
Spokane WA 99201

Applicant: Torek et al.
Appl. No.: 11/510,010
Filing Date: August 24, 2006
Title: PHOTORESIST PROCESSING METHODS
Attorney Docket No.: MI22-3176
Pub. No.: US 2008/0050925 A1
Pub. Date: February 28, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 23, 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:

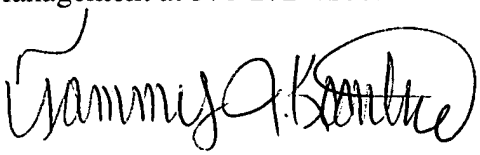
http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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: 01/07/2011 KKING1
12/27/2010 INTEFSW 00000329 11510010
02 FC:1504 -300.00 OP

Refund Ref:
01/07/2011 0030092449

Credit Card Refund Total: $300.00

Am Exp..: XXXXXXXXXX1088

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL A. NELSON
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

MAILED
OCT 04 2011
OFFICE OF PETITIONS

In re Application of	:	
IVERS	:	
Application No. 11/510,080	:	DECISION ON PETITION
Filed: August 25, 2006	:	
Attorney Docket No. 8179 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 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 September 1, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 1, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 2, 2011. A Notice of Abandonment was mailed September 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane Goodwyn/
Diane 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.

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Application of :
Wang et al. : DECISION ON PETITION
Application No. 11/510,106 :
Filed: August 25, 2006 :
Atty Docket No. 7125USP1 :

This is a decision on the Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) filed September 21, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed September 15, 2009. The restriction requirement set a one month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No timely reply or extension of time filed, the application became abandoned effective October 16, 2009. A courtesy Notice of Abandonment was mailed on April 9, 2010.

The petition includes the required reply in the form of an election and payment of the petition fee. In addition, the petition includes the required statement of unintentional delay. No terminal disclaimer is required.

Technology Center AU 3746 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed September 21, 2010.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY LLP
Attn: Patent Group
Suite 1100
777-6th Street, NW
Washington, DC 20001

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Brain Chess, et al.	:	
Application No. 11/510,135	:	DECISION ON PETITION
Filed: August 25, 2006	:	TO WITHDRAW
Attorney Docket No. FOSO-002/01US 304358-2010	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 6, 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 William S. Galliani 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 timely reply to the Office action mailed June 11, 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: **FORTIFY SOFTWARE, INC.**
2300 Geng Road, Suite 102
Palo Alto, CA 94303

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
11/510,135	08/25/2006	Brian Chess	FOSO-002/01US 304358-2010

CONFIRMATION NO. 5006

POWER OF ATTORNEY NOTICE

23419
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
Washington, DC 20001

OC000000045366916

Date Mailed: 01/10/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/06/2010.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JUN 14 2011

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

In re Application of :
Brian Chess, et al. :
Application No. 11/510,135 : ON PETITION
Filed: August 25, 2006 :
Attorney Docket No. FOSO00201US30435810 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2011, to revive the above-identified application.

The petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Edward J. Brooks III appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 11, 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 12, 2010. A Notice of Abandonment was mailed on January 20, 2011. On May 3, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 2439 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED
AUG 31 2011
OFFICE OF PETITIONS

In re Application:	:	
Chess et al.	:	
Application No. 11/510,135	:	ON PETITION
Filed: August 25, 2006	:	
Attorney Docket No.	:	
FOSO00201US30435810		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 16, 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 26 2010

OFFICE OF PETITIONS

LUCAS & MERCANTI LLP
475 PARK AVENUE SOUTH
NEW YORK NY 10016

In re Application of :
Roland Grunder et al :
Application No. 11/510,457 : DECISION ON PETITION
Filed: August 25, 2006 :
Attorney Docket No. GR-57CON :

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 amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed July 8, 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 2854 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120209

DATE : February 09, 2012

TO SPE OF : ART UNIT 3772

SUBJECT : Request for Certificate of Correction on Patent No.: 8,063,264

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:

/PATRICIA BIANCO/
Supervisory Patent Examiner.Art Unit 3772

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston MA 02110

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Schlegel et al.	:	
Application No. 11/510530	:	DECISION ON APPLICATION
Filing or 371(c) Date: 08/25/2006	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
117742-03503	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(B)," filed June 14, 2010. Applicants submits that the correct patent term adjustment to be indicated on the patent is 379 days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in failing to calculate a 229 day delay incurred by the Office, (2), an assertion that the Office errantly failed to calculate a reduction of 91 days incurred by applicant, and (3) on the basis that the Office will take in excess of three years to issue this patent. The petition is properly treated under37 C.F.R. § 1.705(b).

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

BACKGROUND

The application was filed on August 25, 2006. On April 14, 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 14, 2010, applicants timely submitted the present request for reconsideration of patent term adjustment[1]. Applicants do not dispute the reductions of 94 days (60 days, 1 day, or 33 days). Applicants, however, assert that the Office erred in failing to assessing a reduction in accordance with 37 CFR 1.704(b) in connection with the reply to the non-final Office action, filed December 10, 2008. Applicants also assert that the Office erred in failing to calculate a 229-day delay incurred by the Office in connection with the mailing of a final Office action in response to the Amendment/reply filed December 10, 2008. Applicants also assert an entitlement to a period of delay due to the failure of the Office to issue a patent within three years after the date on which the application was filed.

OPINION

Applicants' arguments have been carefully considered. A review of the record confirms that applicants filed a reply to the non-final Office action, mailed June 10, 2008, on December 10, 2008, three months and 91 days after the non-final Office action was mailed. Pursuant to 37 CFR 1.704(b), a reduction of 91 days, beginning on the day after the date that is three months after the date of mailing of the Office action, and ending on the date the reply was filed, is properly assessed applicants.

A further review of Office records reveals that the Office errantly erred in failing to provide an adjustment of the patent term in connection with the mailing of the final Office action, mailed November 25, 2009. Office records reveal that the final Office action was mailed in response to the Amendment/reply filed December 10, 2008. Pursuant to 37 CFR 1.702(a)(2), an adjustment of 229 days, beginning on the day after the date that is four months after the Amendment/reply was filed, April 11, 2009, and ending on the date of mailing of the final Office action, November 25, 2009, is properly accorded applicants.

With regard to the argument under 37 CFR 1.702(b), knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

[1] Office records show that the Issue Fee payment was received in the Office on June 14, 2010.

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is forty-four (44) days (adjustments totaling 229 days less reductions totaling 185 days).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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).

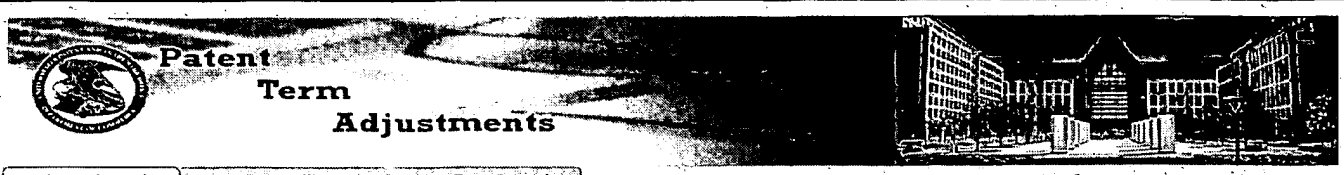
The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See, 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11510530 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11510530

Application Filing Date	08/25/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	0
A Delays	0	PTO Manual Adjustment	138
B Delays	0	Applicant Delay (APPL)	94
C Delays	0	Total PTA (days)	44

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
77	11/04/2010		P020	Adjustment of PTA Calculation by PTO	94		0
76	11/04/2010		P020	Adjustment of PTA Calculation by PTO		185	0
75	11/04/2010		P020	Adjustment of PTA Calculation by PTO	229		0
67	04/14/2010		MN/=.	Mail Notice of Allowance			0
66	04/12/2010		IREV	Issue Revision Completed			0
65	04/12/2010		DVER	Document Verification			0
64	04/12/2010		N/=.	Notice of Allowance Data Verification Completed			0
63	04/12/2010		CNTA	Notice of Allowability			0
60	04/08/2010		PS74	Paralegal TD Accepted			0
58	04/02/2010		FWDX	Date Forwarded to Examiner			0
57	03/30/2010	02/25/2010	A.NE	Amendment after Final Rejection		33	48
56	03/30/2010		XT/G	Request for Extension of Time - Granted			0
59	03/24/2010		DIST	Terminal Disclaimer Filed			0
55	03/09/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
54	03/08/2010		CTAV	Advisory Action (PTOL-303)			0
52	03/02/2010		FWDX	Date Forwarded to Examiner			0
51	02/25/2010		A.NE	Amendment after Final Rejection			0
50	02/24/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
49	02/23/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
48	11/25/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
47	11/23/2009		CTFR	Final Rejection			0
45	10/01/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
44	09/30/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
43	09/17/2009		MW/AC	Mail Notice of Withdrawn Action			0
41	09/14/2009		FWDX	Date Forwarded to Examiner			0
40	09/14/2009		W/AC	Letter Withdrawing / Vacating Office Action			0
42	09/11/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
39	07/20/2009		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
37	06/02/2009		FWDX	Date Forwarded to Examiner			0
35	04/28/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
34	04/22/2009		C.AD	Correspondence Address Change			0
38	04/17/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
36.1	04/17/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
36	04/17/2009		A...	Response after Non-Final Action			0
33	03/20/2009		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
31	01/07/2009		FWDX	Date Forwarded to Examiner			0
30.1	12/10/2008		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
30	12/10/2008		A...	Response after Non-Final Action			0
29	12/10/2008		XT/G	Request for Extension of Time - Granted			0
28	06/10/2008		MCTNF	Mail Non-Final Rejection			0
27	06/06/2008		CTNF	Non-Final Rejection			0
19	04/05/2008		FWDX	Date Forwarded to Examiner			0
26	03/11/2008		IDSC	Information Disclosure Statement considered			0
20	03/11/2008	03/10/2008	M844	Information Disclosure Statement (IDS) Filed		1	18
16	03/11/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
21	03/10/2008		RCAP	Reference capture on IDS			0
18	03/10/2008	01/10/2008	ELC.	Response to Election / Restriction Filed		60	15
17	03/10/2008		XT/G	Request for Extension of Time - Granted			0
15	10/10/2007		MCTRS	Mail Restriction Requirement			0
14	10/05/2007		CTRS	Requirement for Restriction / Election			0
13	09/24/2007		A.PE	Preliminary Amendment			0
12	09/05/2007		C.AD8	Correspondence Address Change			0
11	01/04/2007		PG-ISSUE	PG-Pub Issue Notification			0
10	10/17/2006		DOCK	Case Docketed to Examiner in GAU			0
9	10/12/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
7	09/29/2006		COMP	Application Is Now Complete			0
8	09/26/2006		OIPE	Application Dispatched from OIPE			0
6	09/11/2006		L194	Cleared by OIPE CSR			0
5	09/11/2006		CLSS	CASE CLASSIFIED BY OIPE			0
4	09/08/2006		SCAN	IFW Scan & PACR Auto Security Review			0
3	09/07/2006		CRFF	Error(s) in CRF Corrected by STIC			0
2	08/25/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	08/25/2006		IEXX	Initial Exam Team nn			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 11, 2011

TO SPE OF : ART UNIT 3771 SPE Justine R. Yu.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/510,533 Patent No.: 7,624,734 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 word "both" in Column 13, line 35 (Claim 1, line 22) be deleted as requested by applicant? See COCIN dated 9-20-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: OK to enter

_____ /DD/_ SPE__/Justine R. Yu/_____ Art Unit _3771_____

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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RABIN & BERDO, PC
1101 14TH STREET NW, SUITE 500
WASHINGTON, DC 20005

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Youngtack SHIM :
Application No. 11/510,667 : DECISION ON PETITION
Filed: August 28, 2006 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **MIP-108** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 19, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 19, 2010. Accordingly, the date of abandonment of this application is July 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

/ Thurman K. Page /
Thurman K. Page
Petitions Examiner
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE NW, SUITE 800
WASHINGTON, DC 20037

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Taketoshi YAMASHITA :
Application No. 11/510,793 : DECISION GRANTING PETITION
Filed: August 28, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **Q96684** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 14, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

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.

/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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INNOVATION COUNSEL LLP
21771 STEVENS CREEK BLVD
STE. 200A
CUPERTINO, CA 95014

MAILED

JUN 24 2011

OFFICE OF PETITIONS

In re Application of :
Rhee et al. :
Application No. 11/510,802 : DECISION ON PETITION
Filed: August 25, 2006 :
Attorney Docket No. PANK92940 US :

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**.

The application became abandoned for failure to submit corrected formal drawings in a timely manner in response to the Notice of Allowability, mailed September 14, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 15, 2010. A Notice of Abandonment was mailed 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 replacement drawings, (2) the petition fee of $1,620 , and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : November 3,2011

In re Application of :

Charles Harp

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11510837

Filed : 25-Aug-2006

Attorney Docket No : 53493.002001

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed November 3,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 3626 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	11510837
Filing Date	25-Aug-2006
First Named Inventor	Charles Harp
Art Unit	3626
Examiner Name	TRAN NGUYEN
Attorney Docket Number	53493.002001
Title	STRUCTURED DATA AUTHORING AND EDITING SYSTEM

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Nicholas M. Mathews/
Name	Nicholas M. Mathews
Registration Number	66067

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Paper No.

KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH WI 54956

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Gobel	:	
Application No. 11/510,974	:	DECISION ON PETITION
Filed: August 28, 2006	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
64126906US01	:	
Title: TISSUE TO TISSUE	:	
ANCHORING DEVICE AND METHOD	:	
OF USING THE SAME	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 18, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed April 28, 2010, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 29, 2010. A notice of abandonment was mailed on December 7, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an election of species, 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. The Technology Center's support staff will notify the Examiner of this decision, so that the election of species that was received on February 28, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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TUNG & ASSOCIATES
838 W. LONG LAKE ROAD, SUITE 120
BLOOMFIELD HILLS, MI 48302

MAILED
JUL 08 2011
OFFICE OF PETITIONS

In re Application of :
Chuan-Hsin LEE, et *al.* :
Application No. 11/510,979 : DECISION ON PETITION
Filed: August 28, 2006 : UNDER 37 CFR 1.8(b)
Attorney Docket No. **92,000-030 (PA-1022 US)** :

This is a decision on the petition, filed December 16, 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 reply to the Notice of Allowance and Fee(s) Due, mailed August 18, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of the under 37 CFR 1.136(a) were obtained. Accordingly, a reply was due on or before November 19, 2010.

The petitioner asserts that the reply, in this instance, payment of the issue fee, was timely submitted on September 1, 2010. Petitioner asserts that a PTOL-85 Part-B form indicating issue and publication fees be charged by credit card was submitted along with the PTO-2038 Credit Card Authorization Form. A copy of the Auto-Reply Facsimile Transmission which includes copies of the PTOL-85B indicating authorization to charge issue and publication fees to credit card has been provided.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowance and Fee(s) Due mailed August 18, 2010 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to The Office of Data Management for appropriate action in the normal course of business on the reply received.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Diane M. Dowell & Robbin A. Dowell
4025 Via Pasqual St.
Corona CA 92881

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of :
Robbie A. Dowell, et al. :
Application No. 11/511,105 : ON PETITION
Filed: August 28, 2006 :
Attorney Docket No. DOWEL-001A :

This is in response to the communication, filed April 11, 2011, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On July 20, 2010, the Office mailed a Final Office action, which set a three month shortened statutory period to reply. The application was held abandoned for failure to submit a proper response to the Final Office action. On March 3, 2011, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to an amendment that was filed October 20, 2010 in response to the Final Office action. Specifically, petitioner states that the abandonment should be withdrawn because the response filed on October 20, 2010 was timely.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates that the Office did receive an amendment on October 20, 2010 in response to the Final Office action mailed on July 20, 2010. However, the amendment was improper because it was not signed by a registered patent attorney or all the inventors listed in the application. The signature of inventor, Robbie Dowell was omitted.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Because the amendment filed on October 20, 2010 did not have proper signature(s), it was not considered to be an acceptable reply to the outstanding final Office action of July 20, 2010. As a properly reply to the final Office action was not timely filed, the application became abandoned, by law, on October 21, 2010. Accordingly, the instant petition to withdraw the holding of abandonment is **dismissed**.

The power of attorney filed on October 26, 2010 has been approved. Petitioners should note that the power of attorney is only effective as of the date it is filed.

ALTERNATIVE VENUE

Petitioners are strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a final Office action, the required reply may be met by filing: (1) an amendment which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114; or (4) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the Terri Johnson at (571) 272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jonathan P. O'Brien, Ph.D.
Honigman Miller Schwartz and Cohn LLP
350 East Michigan Avenue
Suite 300
Kalamazoo MI 49007

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Cottrell et al.	:	
Application No. 11/511109	:	ON APPLICATION FOR
Filing or 371(c) Date: 08/28/2006	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
223306/05-115 US/120409	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 28, 2011. Applicants petition for reconsideration of the patent term adjustment calculation to 545 days, not 325 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon (1) an assertion that the Office erred in failing to calculate a delay of 85 days, and (2) on the basis that the Office will take in excess of three years to issue this patent.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in failing to calculate a delay of 85 days is **GRANTED to the EXTENT INDICATED**.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

On November 30, 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 325 days.

On February 28, 2011, applicant timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from 325 days, as indicated on the Determination of PTA mailed November 30, 2010, to an adjustment of 550 days. Applicants aver that the Office may have erred in failing to calculate a

[1] PALM records show that the Issue Fee payment was received in the Office on February 28, 2011.

delay of 85 days, and (2) on the basis that the Office will take in excess of three years to issue this patent.

Applicant does not contest adjustments of 403 days and 32 days, or reductions of 92 days and 18 days.

As to the assertion that the Office erred in failing to calculate a delay of 85 days, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed September 1, 2009 indicates a patent term of 325 days. The instant request for reconsideration of patent term adjustment indicates that the Office may have erred in failing to calculate a reduction of 85 days in connection with the filing of a reply to a Notice to File Missing Parts of Nonprovisional Application, mailed October 3, 2006, on March 29, 2007, three (3) months and 85 days after the mail date of the Notifice.

Office records confirm that a Notice to File Missing Parts of Nonprovisional Application was mailed on October 3, 2006. Applicants filed a response to the Notice to File Missing Parts of Nonprovisional Application on March 29, 2007. The reduction commenced January 4, 2007, the day after the date that is three months after the date of mailing of the Notice to File Missing Parts of Nonprovisional Application, and ending on the date the reply was filed, March 29, 2007, 2007. As such, pursuant to 37 CFR 1.704(b), the application is properly assessed a reduction of 85 days.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of 240 days (adjustments totaling 435 days less reductions totaling 195 days).

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, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term

adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

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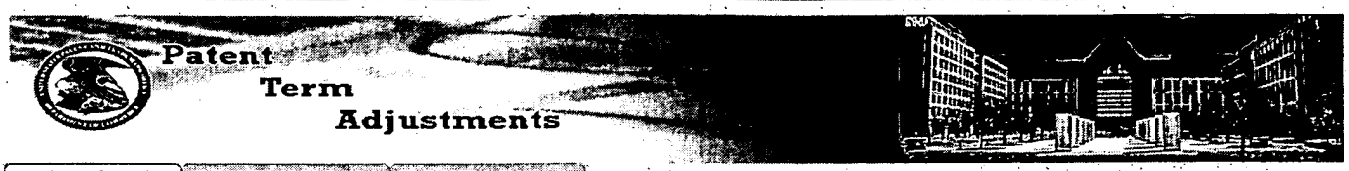
[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11511109 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11511109

Application Filing Date	08/28/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	435
A Delays	435	PTO Manual Adjustment	-85
B Delays	0	Applicant Delay (APPL)	110
C Delays	0	Total PTA (days)	240

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
81	04/08/2011		P028	Adjustment of PTA Calculation by PTO		85	0
73	11/30/2010	10/29/2010	MN/=.	Mail Notice of Allowance	32		54
72	11/29/2010		IREV	Issue Revision Completed			0
71	11/29/2010		DVER	Document Verification			0
70	11/29/2010		N/=.	Notice of Allowance Data Verification Completed			0
69	11/29/2010		DOCK	Case Docketed to Examiner in GAU			0
68	11/22/2010		EXA	Examiner's Amendment Communication			0
67	11/22/2010		CNTA	Allowability Notice			0
56	06/30/2010		FWDX	Date Forwarded to Examiner			0
53	06/30/2010		ABN9	Disposal for a RCE / CPA / R129			0
66	06/29/2010		IDSC	Information Disclosure Statement considered			0
65	06/29/2010		IDSC	Information Disclosure Statement considered			0
64	06/29/2010		IDSC	Information Disclosure Statement considered			0
63	06/29/2010		M844	Information Disclosure Statement (IDS) Filed			0
62	06/29/2010		M844	Information Disclosure Statement (IDS) Filed			0
61	06/29/2010		RCAP	Reference capture on IDS			0
60	06/29/2010		M844	Information Disclosure Statement (IDS) Filed			0
59	06/29/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
58	06/29/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
57	06/29/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
55	06/29/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
54	06/29/2010	06/11/2010	RCEX	Request for Continued Examination (RCE)		18	50
52	06/29/2010		XT/G	Request for Extension of Time - Granted			0
51	06/29/2010		BRCE	Workflow - Request for RCE - Begin			0
50	03/11/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
49	03/10/2010		CTFR	Final Rejection			0
47	01/07/2010		FWDX	Date Forwarded to Examiner			0
48	11/12/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
46	11/12/2009	08/12/2009	A...	Response after Non-Final Action		92	42
45	11/12/2009		XT/G	Request for Extension of Time - Granted			0
44	10/20/2009		C.ADB	Correspondence Address Change			0
43	09/25/2009		C.ADB	Correspondence Address Change			0
42	05/12/2009		MCTNF	Mail Non-Final Rejection			0
41	05/11/2009		CTNF	Non-Final Rejection			0
38	03/06/2009		FWDX	Date Forwarded to Examiner			0
37	03/04/2009		ELC.	Response to Election / Restriction Filed			0
36	03/04/2009		XT/G	Request for Extension of Time - Granted			0
35	01/09/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
34	01/08/2009		C.AD	Correspondence Address Change			0
33	12/04/2008	10/28/2007	MCTRS	Mail Restriction Requirement	403		0.5
32	12/03/2008		CTRS	Restriction/Election Requirement			0
28	06/24/2008		MM327	Mail Miscellaneous Communication to Applicant			0
27	06/23/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
26	06/04/2008		LET.	Miscellaneous Incoming Letter			0
25	02/04/2008		C.ADB	Correspondence Address Change			0
39	11/19/2007		IDSC	Information Disclosure Statement considered			0
24	11/19/2007		EIDS.	Electronic Information Disclosure Statement			0
23	11/19/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
22	08/24/2007		DOCK	Case Docketed to Examiner in GAU			0
21	08/02/2007		PG-ISSUE	PG-Pub Issue Notification			0
19	06/08/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	05/15/2007		OIPE	Application Dispatched from OIPE			0
13	05/15/2007		OIPE	Application Dispatched from OIPE			0
12	04/23/2007		PGPC	Sent to Classification Contractor			0
11	04/23/2007		COMP	Application Is Now Complete			0
10	03/29/2007		ADDFLFEE	Additional Application Filing Fees			0
9	03/29/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
18	02/05/2007		RCAP	Reference capture on IDS			0
17	02/05/2007		M844	Information Disclosure Statement (IDS) Filed			0
7	09/15/2006		L128	Cleared by L&R (LARS)			0
6	09/12/2006		L198	Referred to Level 2 (LARS) by OIPE CSR			0
5	09/12/2006		CLSS	CASE CLASSIFIED BY OIPE			0
4	09/08/2006		SCAN	IFW Scan & PACR Auto Security Review			0
3	09/08/2006		CRFE	CRF Is Good Technically / Entered into Database			0
40	08/28/2006		IDSC	Information Disclosure Statement considered			0
15	08/28/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
2	08/28/2006		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	08/28/2006		IEXX	Initial Exam Team nn			0
0.5	08/28/2006		EFILE	Filing date			0

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Suite 300
Kalamazoo MI 49007

MAILED

OCT 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Cottrell et al.	:	
Application No. 11/511109	:	ON REQUEST FOR
Filing or 371(c) Date: 08/28/2006	:	RECONSIDERATION OF
Pat. Num.: 7,985,762	:	PATENT TERM ADJUSTMENT
Issue Date: 07/26/2011	:	
Attorney Docket Number:	:	
223306/05-115 US/120409	:	

This is a decision on the petition filed on September 26, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred eighty-two (782) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred eighty-two (782) days is **DISMISSED**.

Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on June 29, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on November 30, 2010. Patentees request an additional two hundred twenty (238) 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, July 26, 2011. Patentees aver that with the mailing of the Notice of Allowance on November 30, 2010, the Office closed examination on the present application on that date, and no continued examination took place in the 238-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Patentees assert that 238 days of B Delay should have been included in the period of delay accorded the Director, and that, removing 28 days of overlap, the Patent Term Adjustment should be calculated as 782 days, instead of 572 days.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond

the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and

Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the

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[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a

notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 29, 2009, and ends on June 28, 2010, the day before the RCE, filed June 29, 2010, was filed, and is zero (0) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 304 days, not 542 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

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[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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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SEP 27 2010

OFFICE OF PETITIONS

In re Application :
Sapir :
Application No. 11/511,117 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: August 26, 2006 :
Dkt. No.: 088245-9265 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 10, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 582 days, not 508 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e). As the submission of the fee is required for reconsideration of the patent term adjustment, the request for refund is hereby DISMISSED.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: LAIC3089/REF	Patent Number: 7664560
Filing Date (or 371(b) or (f) Date): 2006-08-29	Issue Date: 2010-02-16
First Named Inventor: Cheng-Shing Lai	
Title: PORTABLE MEDIA PLAYER WITH COMMON EARPHONE TRANSMISSION PORT AND SIGNAL ADAPTOR CABLE THEREOF	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /ThomasJMoore/	Date 2010-08-12
Name (Print/Typed) Thomas J. Moore	Registration Number 28974

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/18/2010

Applicant	: Cheng-Shing Lai	: DECISION ON REQUEST FOR
Patent Number	: 7664560	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/511,230	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **724** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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NOV 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,609,657
Issue Date: October 27, 2009
Application No. 11/511,373
Filed: August 29, 2006
Attorney Docket No. 4459-0482PUS1

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 14, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 5, 2011

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11511399 Patent No.: 7797986

CofC mailroom date: Jan. 24, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Valerie Jackson

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: _____

Hezron Williams/ 2856
SPE **Art Unit**

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Alexandria, VA 22313-1450
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APR 11 2011

OFFICE OF PETITIONS

GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

In re Application of :
Douglas MacGregor, et. al. :
Application No. 11/511,473 : ON PETITION
Filed: August 29, 2006 :
Attorney Docket No. 009316-0787 :

This is a decision on the petition under 37 CFR 1.181 filed February 28, 2011, requesting to withdraw the holding of abandonment in the above-identified application.

The above application was held abandoned for failure to timely submit an appeal brief within two months of the Notice of Appeal filed on May 24, 2010. A Notice of Abandonment was mailed on February 6, 2011.

Petitioner states "In support of this Petition, Applicant states that a timely Response was filed on May 20, 2010. Attached as Exhibit A is a copy of the Response filed. Furthermore, Applicant filed a Notice of Appeal on May 24, 2010. Attached as Exhibit B is a copy of the Notice of Appeal. Accordingly, the Notice of Abandonment mailed February 6, 2011 should be withdrawn as improperly sent."

Petitioner should note that even though a response was filed and received on May 20, 2010, which could be considered as a timely response to the Office action, the terminal disclaimer, which is part of the response, was not properly signed; and therefore, was considered as an incomplete response to the Office action. Petitioner should further note, that this application would have been abandoned on May 24, 2010, which was the six month deadline for filing a proper response to the Office action accompanied by a three months extension of time, but a Notice of Appeal was timely filed on May 24, 2010. Unfortunately, since an Appeal Brief was not submitted within two months of the Notice of Appeal filed on May 24, 2010, this application was properly held abandoned[1].

In view of the above the present petition is **dismissed**.

[1] The date of abandonment by operation of the law is July 25, 2010.

ALTERNATIVE VENUE

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

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), $810 for small entity or $1,620 for large entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application can be found on the Web site at www.uspto.gov form (PTO/SB/64).

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3226.

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

GODFREY & KAHN, S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of :
Douglas MacGregor, et. al. :
Application No. 11/511,473 : ON PETITION
Filed: August 29, 2006 :
Attorney Docket No. 009316-0787 :

This is a decision on the petition under 37 CFR 1.137(b), filed on May 6, 2011, to revive the above-identified application.

In response to the decision mailed April 11, 2011, petitioner submits the present petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an acceptable amendment and a terminal disclaimer under 37 CFR 1.321; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3715 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Sami Ala-Luukko	:	
Application No. 11/511,550	:	ON REQUEST FOR
Filed: August 28, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 088245-3108	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), October 25, 2011. Applicant believes that the PTA should be accorded an additional nine hundred seventy-seven (977) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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].

In view thereof, the correct determination of PTA prior to issuance is **four hundred fifty (450) days.**

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 the undersigned at (571) 272-3207.

Cliff Congo
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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of :
Alessandro CORONA III et al. : DECISION GRANTING PETITION
Application No. 11/511,591 : UNDER 37 CFR 1.137(b)
Filed: August 29, 2006 :
Atty. Docket No.: 10123 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file an appeal brief (and appeal brief fee), in support of the Notice of Appeal filed March 24, 2010. No extensions of time under 37 CFR 1.136 were obtained. Accordingly, the application became abandoned on May 25, 2010.

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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application. The present petition fails to include an appropriate reply. Notably, the present petition does not include an appeal brief (plus fee), an RCE (plus fee), nor the filing of a continuing application.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents

P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

General inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

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JUN. 15 2011

OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:	
Alessandro CORONA III et al.	:	DECISION GRANTING PETITION
Application No. 11/511,591	:	UNDER 37 CFR 1.137(b)
Filed: August 29, 2006	:	
Atty. Docket No.: 10123	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2011, which is treated as a renewed petition.

The petition is **GRANTED**.

The application became abandoned for failure to timely file an appeal brief (and appeal brief fee), in support of the Notice of Appeal filed March 24, 2010. No extensions of time under 37 CFR 1.136 were obtained. Accordingly, the application became abandoned on May 25, 2010.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing application (13/068,625).

Petitioner has submitted an additional petition fee. However, as the petition fee was submitted with the original petition filed January 14, 2011, the additional petition fee of $1620 is unnecessary, and will be refunded to petitioners deposit account 16-2480.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

for David Bucci
Petitions Examiner
Office of Petitions

05-17-11

DAC

OPAP IAP4 MAY 16 2011 PATENT & TRADEMARK OFFICE

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number 10123L

First Named Inventor: Alessandro Corona III

Application No.: 11/511,591 Art Unit: 1763

Filed: August 29, 2006 Examiner: Mohammad Reza Asdjodi

Title: Concentrated Fabric Softener Active Compositions

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer – required for all utility applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
[X] Authorization is given to charge the required fee under 37 CFR 1.17(m), and any additional fees that may be required in connection with submission of this petition, or to credit any overpayment, to Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

2. Reply and/or Issue Fee
A. The reply to the last Communication from the Office in the form of a continuing application (identify type of reply):
[] has been filed previously on ___.
[X] is enclosed herewith.

05/18/2011 MBELETE1 00000026 162480 11511591
01 FC:1453 1620.00 DA

B. The issue fee(s)
[] has been paid previously on _____.
[] transmittal form is enclosed herewith.

Adjustment date: 06/15/2011 CKHLOK
05/18/2011 MBELETE1 00000026 162480 11511591
01 FC:1453 1620.00 CR

3. Terminal disclaimer

[X] Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

[] A terminal disclaimer disclaiming the required period of time is enclosed herewith.

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and(D))].

May 16, 2011
Date

Melissa Krasovec
Signature

Telephone Number: (513) 983-5228

Melissa G Krasovec
Typed or printed name

Registration Number: 59,174

CUSTOMER NO.: 27752

Enclosures: [X] Continuing Application, Utility Transmittal Form, Declaration
[] Issue Fee(s) Transmittal Form
[] Terminal Disclaimer Form
[] Additional sheets containing statements establishing unintentional delay
[] Cover Letter

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: June 13, 2011

2 Serial/Patent # 11/514,591

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition		May 16, 2011	$ 1620
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1620

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 1 6 -- 2 4 8 0

10 REASON:

	Overpayment
✓	Duplicate Payment
	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Robert DeLuca TITLE: Atty Advisor

SIGNATURE: PHONE: 2-8427

OFFICE: Petitions

****

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APPROVED: DATE: 6/15/11

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SEP 27 2011
OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Sami Ala-Luuko	:	ON REQUEST FOR
Application No. 11/511609	:	RECONSIDERATION OF
Filing or 371(c) Date: 08/28/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
088245-3120	:	

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 September 14, 2011. Applicant requests an adjustment of the patent term to indicate a total Patent Term Adjustment of 1262 days, not 498 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/18/2011

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/511702 Patent No.: 7929569 B2

CofC mailroom date: 7/12/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

All changes are approved. /C.H./

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_____

_____

_____ 2464

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

Henri Duong
316 1/2 E Glendon Way
Alhambra, CA 91801

MAILED

JUN 0 1 2011

OFFICE OF PETITIONS

In re Application of Henri Duong :
Application No. 11/511,897 :
Filing Date: August 28, 2006 : Decision on Petition
For: Transmission of Image for :
Telephone, Computer PC, Laptop :

This is a decision on the letter filed August 30, 2010, which is being treated as a petition under 37 C.F.R. § 1.181 requesting withdrawal of the holding of abandonment.

The petition under 37 C.F.R. § 1.181 is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter titled "Renewed Petition under 37 C.F.R. § 1.181."

Background

The Office mailed a final Office action on March 5, 2010.

Petitioner filed an amendment on March 29, 2010.

The Office mailed an Advisory Action on April 22, 2010.

Petitioner submitted a request for continued examination ("RCE") on May 21, 2010. The RCE states the required fee for the RCE is being filed in the form of "a letter requesting late payment of RCE fee until patent is issued." Petitioner's signature on the RCE is dated May 21, 2010.

Petitioner submitted a new RCE on May 24, 2010. The new RCE states the required fee for the RCE is being filed in the form of authorization for the Office "to take overpayment appeal fee of # 10/669,668." Petitioner's signature on the new RCE is dated May 22, 2010.

Since Petitioner did not submit the required $405 fee for the RCE or obtain an extension of time, the application became abandoned on Tuesday, June 8, 2010.

Petitioner filed a letter on August 30, 2010, which requests the Office "activate patent approval of overdue application no. 11/511,897." The Office is treating the letter as a petition to withdraw the holding of abandonment.

Discussion

Since an extension of time was not obtained, the application is abandoned unless a proper reply was filed on or before Monday, June 7, 2010.

Petitioner appears to have intended to replace the May 21, 2010 RCE with the new RCE filed May 24, 2010. Therefore, the Office will address the issue of whether or not the May 24, 2010 RCE was a proper reply to the final Office action.

If the RCE did not include the required $405 RCE fee, the RCE was not a proper reply to the final Office action.

The RCE stated the Office was authorized to transfer the fee from unused funds in Application No. 10/669,668. However, a party may not pay a fee by requesting funds be transferred from one application to another application. Even if a party could pay a fee for an application by requesting the Office transfer excess funds paid in one application to another application, the May 24, 2010 RCE would remain improper because Petitioner failed to identify $405 in excess funds paid in Application No. 10/669,668.

Since the record fails to demonstrate Petitioner timely filed a proper reply to the final Office action, the petition is dismissed and the holding of abandonment will not be withdrawn.

If Petitioner wishes to pursue the instant application, Petitioner may wish to file a petition to revive the application under 37 C.F.R. § 1.137. If a petition under 37 C.F.R. § 1.137 is filed, Petitioner will need to file one of the following items:

1. An amendment which *prima facie* places the case in condition for allowance,
2. A Notice of Appeal and the required $270 fee,
3. A RCE and the required $405 fee, or
4. A continuing application.

If the petition is filed under 37 C.F.R. § 1.137(a), the petition must also include a petition fee of $270 and evidence establishing the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 C.F.R. § 1.137(a) was unavoidable. A blank petition under 37 C.F.R. § 1.137(a) form is enclosed for Petitioner's convenience. A PDF "fillable" version of the form can be found at http://www.uspto.gov/web/forms/sb0061.pdf.

If the petition is filed under 37 C.F.R. § 1.137(b), the petition must also include a petition fee of $810 and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A blank petition under 37 C.F.R. § 1.137(b) form is enclosed for Petitioner's convenience. A PDF "fillable" version of the form can be found at http://www.uspto.gov/web/forms/sb0064.pdf.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/61 (Petition under 37 C.F.R. § 1.137(a) form)
Form PTO/SB/64 (Petition under 37 C.F.R. § 1.137(b) form)
Privacy Act Notice

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 23, 2011

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction for Appl. No. 11/511903 patent No.:7878365

C of C mailroom date:--03-15-11----------

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: _____

_____

_____

_____

_____

_____ 3781

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL GAUER ATTORNEY
347 FRANKLIN STREET
BLOOMFIELD NJ 07003

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Walker, Jasper Lee	:	
Application No. 11/511,905	:	DECISION ON PETITION
Filed: August 29, 2006	:	
Title: PEDAL SCOOTER	:	

This is a decision on the renewed petition, filed June 21, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the Office action dated July 31, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) a statement from practitioner stating that the Office action was not received by the practitioner;

(2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

(3) a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition 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.

As petitioner has submitted a reply to the Office action, this application is being referred to the Technology Center AU 3611 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,653,428	: DECISION ON
Goldstein, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/511,916	: of PATENT TERM ADJUSTMENT
Issue Date: January 26, 2010	: and
Filed: August 28, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 27374-003CON	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. § 1.705(d)", filed March 23, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from four hundred eighty-seven (487) days to six hundred twenty-four (624) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED.**

On January 26, 2010, the instant application matured into U.S. Patent No. 7,653,428 with a patent term adjustment of four hundred eighty-seven (487) days. Patentees filed the instant application for patent term adjustment on March 23, 2010. The Office determined a patent term adjustment of 487 days based upon 453 days of Office delay pursuant to 37 CFR 1.703(a)(1), 34 days of Office delay pursuant to 37 CFR 1.703(a)(2), and 0 days of Office delay pursuant to 37 CFR 1.703(b), reduced by no days of Applicant delay.

Patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date of the patent was not included in the "B" delay period. The over three year period began on August 29, 2009 and ended on January 26, 2010 (the patent issue date), and is 151 days. See 35 U.S.C. 154(b)(1)(B). As such, the "B" delay period is 151 days, not 0 days as originally calculated.

In view thereof, the correct number of days of patent term adjustment is **six hundred twenty-four (624)** days (638 (453+34+151) days of PTO delay, reduced by 0 days of Applicant delay and 14 days of overlap between "A" and "B" delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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 **six hundred twenty-four (624) 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 : 7,653,428 B2

DATED : **January 26, 2010**

INVENTOR(S) : Goldstein 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 487 days.

Delete the phrase "by 487 days" and insert – by 624 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED
JUL 08 2011
OFFICE OF PETITIONS

In re Application of :
Arsalan Alan EMAMI et al. : ON PETITION
Application No. 11/512,007 :
Filed: August 28, 2006 :
Atty. Docket No.: 7369P002

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application went abandoned for failure to reply in a timely manner to the Requirement for Restriction/Election mailed May 12, 2009 (Restriction Requirement), which set a shortened statutory period for reply of one (1) month. No reply was received. The application thus went abandoned June 13, 2009. A Notice of Abandonment was mailed November 18, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding issue fee or any portion 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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner has indicated the above-identified application was assigned to NexTherm at the time the reply to the restriction requirement was due. Because this assignment was not filed with the USPTO, the Office will need a copy of it as part of the response to this decision. The assignment must clearly establish ownership of the instant application at the time of abandonment. Further, it is not clear who the stockholders of NexTherm were, and more specifically whether Barry M. Forman, the co-inventor, was a stockholder. Petitioner must provide a list of the stockholders of NexTherm at the time this application became abandoned. Notwithstanding any of this, no facts have been presented that NexTherm, the other stockholders in NexTherm, or Barry M. Forman did not intentionally abandon the present application. Petitioner must provide statements from each of these parties as to the circumstances regarding the abandonment of this application.

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 Building
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
SEP 12 2011
OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

In re Application of :
Arsalan Alan EMAMI et al. : ON PETITION
Application No. 11/512,007 :
Filed: August 28, 2006 :
Atty. Docket No.: 70573.3

This is in response to the renewed petition under 37 CFR 1.137(b), filed August 29, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application went abandoned for failure to reply in a timely manner to the Requirement for Restriction/Election mailed May 12, 2009 (Restriction Requirement), which set a shortened statutory period for reply of one (1) month. No reply was received. The application thus went abandoned June 13, 2009. A Notice of Abandonment was mailed November 18, 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 pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Item (3) requires the delay in filing the response to be unintentional. However, the evidence presented with the instant petition shows the delay in filing the response to be intentional. Through the provided assignment document, NexTherm was the assignee of

the invention. Prior to the dissolution of NexTherm, NexTherm's counsel indicated that NexTherm intentionally abandoned the present application. As NexTherm, the assignee of the invention, intentionally abandoned the application, the delay in filing the response was not unintentional. Hence, the instant petition is not grantable.

As indicated by co-inventor Emami ("Emami") in the statement filed concurrently with the instant petition (*see* item 7), Emami was granted the rights to the instant application in March, 2011. As noted above, the instant application became abandoned on June 13, 2009. In the period extending from June 13, 2009 to March, 2011 Emami was not the sole assignee. Accordingly, the statement of unintentional delay signed by Emami cannot be accepted.

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 Building
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

for Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/512,302	08/30/2006	Ilia Ovsiannikov	M4065.1325/P1325	2073

45374 7590 02/23/2011

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

EXAMINER	
MISLEH, JUSTIN P	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
02/23/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

February 22, 2011

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON DC 20006

In re Application of :
Ilia Ovsiannikov : **DECISION ON PETITION**
Application No. 11512302 :
Filed: 08/30/2006 :
Attorney Docket No. **M4065.1325/P1325** :

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84(a)(2), received in the United States Patent and Trademark Office (USPTO) August 30, 2006. Colored copies of Figs. 1-2 were submitted with the petition. Replacement drawings for Figs. 1-2 were submitted on October 20, 2009. The replacement drawings for Figs. 1-2 were not submitted in color.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/512,302	08/30/2006	Ilia Ovsiannikov	M4065.1325/P1325	2073

7590 04/14/2011

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

EXAMINER	
MISLEH, JUSTIN P	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
04/14/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

April 13, 2011

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON DC 20006

In re Application of	:	
Ilia Ovsiannikov	:	**DECISION ON PETITION**
Application No. 11512302	:	
Filed: 08/30/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **M4065.1325/P1325**	:	***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) August 30, 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

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	11512360
Filing Date	30-Aug-2006
First Named Inventor	David Sorrells
Art Unit	2614
Examiner Name	LANA LE
Attorney Docket Number	1744.1900008
Title	SYSTEMS AND METHODS OF RF POWER TRANSMISSION, MODULATION, AND AMPLIFICATION, INCLUDING A CARTESIAN-POLAR-CARTESIAN-POLAR (CPCP) EMBODIMENT

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	/Christian A. Camarce/
Name	Christian A. Camarce
Registration Number	65021

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 11, 2012

In re Application of :

David Sorrells

DECISION ON PETITION
UNDER CFR 1.313(c)(2)

Application No : 11512360

Filed : 30-Aug-2006

Attorney Docket No : 1744.1900008

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 11, 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 2614 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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January 5, 2012

Dawn C. Russell
Arent Fox LLP
1050 Connecticut Avenue N.W.
Washington, DC 20036

Patent No: 8,034,572 B2
Application No: 11/512,408
Applicant: Mart Saarma, et al.
Issued: October 11, 2011
Title: **RECEPTOR FOR GDNF FAMILY LIGANDS**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

In the title, it is the practice to exclude words such as "Improvements in, "New", "A", "Novel" etc., from the printed patent.

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be directed to Decisions and Certificate of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

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United States Patent and Trademark Office
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JACKSON INTELLECTUAL PROPERTY GROUP, PLLC
106 STARVALE LANE
SHIPMAN, VA 22971

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Chung-Jen Lin :
Application No. 11/512,428 : DECISION ON PETITION
Filed: August 30, 2006 :
Attorney Docket No. 7005.161 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 23, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 24, 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**.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to 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 3728 for appropriate action by the Examiner in the normal course of business on the reply received November 22, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/13/11

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 11512479 Patent No.: 8005526

CofC mailroom date: 12/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

XApproved **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments: All changes deal with minor informalities and are approved.

SPE /Linda C.M. Dvorak/
Art Unit 3739

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ARNOLD & PORTER LLP (24126)
ATTN: SV DOCKETING DEPT
1801 PAGE MILL ROAD
SUITE 110
PALO ALTO CA 94304

MAILED

AUG 0 9 2011

OFFICE OF PETITIONS

In re Application of :
Goddard, et al. :
Application No. 11/512,525 : ON PETITION
Filed: August 29, 2006 :
Attorney Docket No. GNE-0158 D2 :

This is a decision on 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-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed April 2, 2010. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on July 3, 2010. The Office mailed a Notice of Abandonment on October 27, 2010.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 1646 for consideration of the Amendment, filed July 21, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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7 WOONSOCKET AVENUE
SHELTON, CT 06484-5536

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JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Jonathan Kost
Application No. 11/512,562
Filed: August 30, 2006
Attorney Docket No. DJK0606TMS

DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed December 1, 2010 and supplemented December 6, 2010, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed January 20, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 30, 2010.

Petitioner asserts that the Office action dated January 20, 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 non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item 3 of the above-stated requirements.

Accordingly, absent the required evidence to establish non-receipt of the Office action of January 20, 2010, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of :
Jonathan Kost :
Application No. 11/512,562 : DECISION ON PETITION
Filed: August 30, 2006 :
Attorney Docket No. DJK0606TMS :

This is a decision on the renewed petition, filed February 16, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-compliant Amendment (Notice) mailed January 20, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 30, 2010.

Petitioner asserts that the Office action dated January 20, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and, in the absence of any irregularity, there is a strong presumption that the 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 Technology Center.

Since petitioner has already satisfied the requirements of the Notice mailed January 20, 2010 by filing an amendment. This application is being referred to the Technology Center for further processing in accordance with this decision on petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Application of
Oliver Goldman et al.
Application No. 11/512,764
Filed: August 29, 2006
Attorney Docket No. 07844-0740001 / P675

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed March 7, 2012. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from 427 days to 429 days.

The application for patent term adjustment is **DISMISSED**.

On December 14, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred twenty-seven days. On March 7, 2012, applicants timely[1] submitted the instant application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred twenty-nine **(429)** days. Applicants dispute the reduction of 68 days for the response filed October 22, 2009, in accordance with the decision in Arqule v. Kappos, 2010 U.S. Dist. Ct. Motions 1904, 2011 (D.D.C. 2011).

Specifically, Applicants dispute the reduction of 2 days for the response filed October 22, 2009. "A reply to an Office Action was due on or before August 17, 2009 (the date that is three months after May 15, 2009, the date on which the Office Action was mailed). Applicants filed a response to the Office Action on October 22, 2009. Applicants were accorded a delay of 68 days for a late response. Applicants respectfully submit that the PTO calculated delay from August 15, 2009, instead of August 17, 2009. As intended in 35 U.S.C. § 154(b)(2)(C)(ii), the three-month due date should be calculated from August 17, 2009, as August 15, 2009, falls over a weekend, and Applicants request that the Office recalculate this period of Applicant Delay as 66 days, for delay from August 18, 2009, to October 22, 2009. See 37 C.F.R. § 1.704(b)."

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).

---

[1] PALM records indicate that the Issue Fee was received in the Office on March 7, 2012.

Applicant's arguments have been considered, but not found persuasive. Applicant is incorrect that this period of reduction, pursuant to 35 U.S.C. § 154(b) (2) (C) and 37 CFR 1.704(b), is incorrectly calculated as 68 days. The weekend/holiday exception does not apply to the period of applicant delay at issue. The Office action was mailed on May 15, 2009, with a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a) . It is recognized that the three-month deadline, August 15, 2009, ended on a Saturday. However, in this instance, applicant did not exercise the §21(b) weekend/holiday exception to file a timely response under §133 on the following business day. Applicant timely filed a reply on October 22, 2009, with an extension of time for response within 3 months. In other words, the reply filed October 22, 2009 was not timely filed pursuant to 35 U.S.C. §21(b) . Thus, the period of reduction was properly calculated as 68 days counting the number of days beginning on the day after the date that is three months after the date of mailing of the Office action, May 15, 2009 and ending on the date the reply was filed, October 22, 2009. Accordingly, the period of reduction of 68 days will be retained.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 427 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-60769	Patent Number: 7,663,351
Filing Date (or 371(b) or (f) Date): 08-30-2006	Issue Date: 02/16/2010
First Named Inventor: Roman Korsunsky	
Title: SYNCHRONIZATION CIRCUITRY FOR MULTIPLE POWER CONVERTERS COUPLED AT A COMMON NODE	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 2, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/12/2010

Applicant	: Roman Korsunsky	: DECISION ON REQUEST FOR
Patent Number	: 7663351	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/512,851	: 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 **78** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/16/11

TO SPE OF : ART UNIT: 2435 Attn: VU KIM Y (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/512885 Patent No.: 7986785

CofC mailroom date: 11/04/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check Claims 6 & 24
Should these amended claims be amended again or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Kimyen Vu/ _____AU 2435_
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Sok Won NOH, et *al.* :
Application No. 11/512,991 : DECISION GRANTING PETITION
Filed: August 28, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **57367/S1187** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 10, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 7, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2861 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
DEC 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Jong-Suk Lee	:	
Application No. 11/513,057	:	DECISION GRANTING PETITION
Filed: August 31, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q95756	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 12, 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 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 2116 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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RISSMAN HENDRICKS & OLIVERIO, LLP
100 CAMBRIDGE STREET
SUITE 2101
BOSTON, MA 02114

MAILED
MAY 05 2011
PCT LEGAL ADMINISTRATION

In re Application of :
KRUPP et al :
Application No.: 11/513,118 : DECISION ON PETITION
Filing Date: August 31, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: A013-7000US0 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 4, 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 and ADS filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

Although the first paragraph of the specification arguably contains a proper reference to U.S. provisional application number 60/712,820, the ADS improperly states that international application PCT/EP02/09348 is a nonprovisional of U.S. provisional application number 60/712,820. Because the provisional application was filed later than the international application, the international application cannot claim benefit of the provisional application.

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and a supplemental Application Data Sheet titled in accordance with 37 CFR 1.76(c) is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RISSMAN HENDRICKS & OLIVERIO, LLP
100 CAMBRIDGE STREET
SUITE 2101
BOSTON, MA 02114

MAILED
DEC 22 2011
PCT LEGAL ADMINISTRATION

In re Application of :
KRUPP et al :
Application No.: 11/513,118 : DECISION ON PETITION
Filing Date: August 31, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: A013-7000US0 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 12, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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 late claim for priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an ADS, as

provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed 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.

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1637 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Yuji Koga, et al. :
Application No.: 11/513,179 : ON PETITION
Filed: August 31, 2006 :
Attorney Docket No.: 076376.0484 :

This is a decision on the petition, filed August 11, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2010, 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 2854 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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,892,509 :
Issue Date: February 22, 2011 :
Application No. 11/513,272 : DECISION ON PETITION
Filed: August 31, 2006 :
Attorney Docket No. 2611-0262PUS1 :

This is a decision on the petition under 37 CFR 3.81(b), filed April 11, 2011.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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MAY 19 2011

OFFICE OF PETITIONS

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

In re Application of :
Maher Dababneh et al. :
Application No. 11/513,295 : DECISION ON PETITION
Filed: August 29, 2006 :
Attorney Docket No. 207,190 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 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 July 19, 2010. A three month extension of time under the provisions of 37 CFR 1.136(a) was 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 September 20, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed March 4, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

As to item (3) the statement of unintentional delay is presently not acceptable since the statement of unintentional delay was not properly signed. The petition was not signed by all of the inventors. See 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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 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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MAILED

AUG 24 2011

OFFICE OF PETITIONS

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

In re Application of :
Maher Dababneh et al. :
Application No. 11/513,295 : DECISION ON PETITION
Filed: August 29, 2006 :
Attorney Docket No. 207,190 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 2011, to revive the above-identified application. A one month extension of time was obtained.

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 July 19, 2010. A three month extension of time under the provisions of 37 CFR 1.136(a) was 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 September 20, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed March 4, 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 2617 for appropriate action in the normal course of business for processing of the RCE received August 8, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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STERNE KESSLER GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
NOV 22 2011
OFFICE OF PETITIONS

In re Application of :
David Leason et al :
Application No. 11/513,324 : DECISION GRANTING PETITION
Filed: August 31, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 222.4020004 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 18, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 27, 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 3688 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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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of :
REISMAN, RICHARD R. :
Application No. 11/513,412 : ON APPLICATION FOR
Filed: 08/31/2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 2222.431000H :

This is in response to the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(b)" filed August 2, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 877 days, not 414 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a

determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months

---

[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.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

MAILED
JAN 24 2012
OFFICE OF PETITIONS

In re Application of :
Green et al. :
Application No. 11/513,418 : DECISION ON APPLICATION
Filed: 08/31/2006 : FOR
Atty Docket No. PC061292B : PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT filed January 12, 2012, which is properly treated as a petition under 37 CFR 1.705(b). Applicants request correction of the patent term adjustment from six hundred twenty (620) days to nine hundred fifty-one (951) days. Applicants' request is based in part on the Office taking in excess of three years to issue the patent.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **five hundred forty-two (542) days.** A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On October 12, 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 was 620 days. On January 12, 2012, applicants timely filed the present petition under 37 CFR 1.705(b).

Initially, applicants disclose that they should have been assessed a period of delay of 78 days, pursuant to 37 CFR

1.704(b), for the filing of the response to the non-final Office Action on December 17, 2009.

A review of the application history confirms that the period of adjustment set forth in § 1.703 should have been reduced by 78 days pursuant to 37 CFR 1.704(b), for the period beginning on the day after the date that is three months after the date of mailing of the non-final Office action, October 1, 2009, and ending on the date the reply was filed, December 17, 2009. Accordingly, a period of reduction of 78 days will be entered. The Office thanks applicants for the disclosure.

As to applicants' request for 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 patentee is entitled to for Office failure to issue the patent within three years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not

calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view of the additional period of reduction pursuant to 37 CFR 1.704(b), the patent term adjustment determination at the time of the mailing of the notice of allowance is **542 days** (773 days of Office delay - 231 days of applicant delay).

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 matter is being referred to the Office of Data Management for issuance of the patent.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

11/513,418	RECOMBINANT PROTECTIVE PROTEIN FROM STREPTOCOCCUS PNEUMONIAE	PC061292B	01-20-2012::12:05:23

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/513,418

Filing or 371(c) Date:	08-31-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	773
A Delays:	773	PTO Manual Adjustments:	-78
B Delays:	0	Applicant Delays:	153
C Delays:	0	Total PTA Adjustments:	542

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
99	01-20-2012	Adjustment of PTA Calculation by PTO		78	0
89	10-12-2011	Mail Notice of Allowance			0
88	10-04-2011	Office Action Review			0
87	10-04-2011	Office Action Review			0
86	10-04-2011	Office Action Review			0
85	10-04-2011	Issue Revision Completed			0
84	10-04-2011	Document Verification			0
83	10-04-2011	Notice of Allowance Data Verification Completed			0
82	10-04-2011	Case Docketed to Examiner in GAU			0
80	09-23-2011	Interview Summary - Examiner Initiated			0
79	09-30-2011	Examiner's Amendment Communication			0
78	09-30-2011	Allowability Notice			0
77	09-26-2011	CRF Is Good Technically / Entered into Database			0
73	09-27-2011	Date Forwarded to Examiner			0
72	09-26-2011	Supplemental Response			0
71	08-17-2011	Date Forwarded to Examiner			0
70	08-16-2011	Amendment Submitted/Entered with Filing of CPA/RCE			0
69	08-16-2011	Request for Continued Examination (RCE)		91	63

68	08-17-2011	Disposal for a RCE / CPA / R129		0
67	08-16-2011	Request for Extension of Time - Granted		0
66	08-16-2011	Workflow - Request for RCE - Begin		0
65	02-17-2011	Electronic Review		0
64	02-17-2011	Email Notification		0
63	02-17-2011	Mail Final Rejection (PTOL - 326)	306	60
62	02-14-2011	Final Rejection		0
61	12-29-2010	Date Forwarded to Examiner		0
60	12-17-2009	Response after Non-Final Action		0
59	04-26-2010	Mail Notice of Rescinded Abandonment		0
58	04-26-2010	Notice of Rescinded Abandonment in TCs		0
57	06-07-2010	Email Notification		0
56	06-07-2010	Mail Examiner Interview Summary (PTOL - 413)		0
55	06-01-2010	Examiner Interview Summary Record (PTOL - 413)		0
54	06-02-2010	Email Notification		0
53	04-30-2010	Email Notification		0
52	04-26-2010	Mail-Petition to Revive Application - Granted		0
51	04-23-2010	Petition to Revive Application - Granted		0
50	01-28-2010	Petition Entered		0
49	04-26-2010	Mail-Petition Decision - Dismissed		0
48	04-23-2010	Petition Decision - Dismissed		0
46	01-28-2010	Petition Entered		0
45	01-28-2010	Email Notification		0
44	01-28-2010	Mail Examiner Interview Summary (PTOL - 413)		0
43	01-20-2010	Examiner Interview Summary Record (PTOL - 413)		0

42	01-12-2010	Mail Abandonment for Failure to Respond to Office Action			0
41	01-07-2010	Aband. for Failure to Respond to O. A.			0
40	06-30-2009	Mail Non-Final Rejection			0
39	06-22-2009	Non-Final Rejection			0
38	06-22-2009	Examiner Interview Summary Record (PTOL - 413)			0
37	04-01-2009	Information Disclosure Statement considered			0
36	06-14-2007	Information Disclosure Statement considered			0
35	04-30-2007	Information Disclosure Statement considered			0
34	04-01-2009	Information Disclosure Statement (IDS) Filed		0	32
33	04-08-2009	Date Forwarded to Examiner			0
32	04-01-2009	Response to Election / Restriction Filed			0
31	04-01-2009	Request for Extension of Time - Granted			0
30	04-01-2009	Information Disclosure Statement (IDS) Filed			0
29	02-09-2009	Mail Restriction Requirement	467		0.5
28	02-05-2009	Restriction/Election Requirement			0
25	02-22-2008	Change in Power of Attorney (May Include Associate POA)			0
24	02-20-2008	Correspondence Address Change			0
23	06-14-2007	Reference capture on IDS			0
22	06-14-2007	Information Disclosure Statement (IDS) Filed			0
21	06-28-2007	IFW TSS Processing by Tech Center Complete			0
20	06-14-2007	Information Disclosure Statement (IDS) Filed			0
19	04-30-2007	Information Disclosure Statement (IDS) Filed			0
18	06-28-2007	Case Docketed to Examiner in GAU			0
17	06-21-2007	PG-Pub Issue Notification			0
16	06-14-	Information Disclosure Statement (IDS) Filed			0

	2007			
14	04-30-2007	Information Disclosure Statement (IDS) Filed		0
13	04-30-2007	Information Disclosure Statement (IDS) Filed		0
12	04-10-2007	Application Dispatched from OIPE		0
11	03-15-2007	Sent to Classification Contractor		0
10	03-15-2007	Application Is Now Complete		0
9	02-27-2007	Payment of additional filing fee/Preexam	62	5
8	02-27-2007	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in		0
6	03-08-2007	CRF Is Good Technically / Entered into Database		0
5	09-27-2006	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	09-08-2006	Cleared by OIPE CSR		0
3	09-08-2006	CASE CLASSIFIED BY OIPE		0
2	09-07-2006	IFW Scan & PACR Auto Security Review		0
1	08-31-2006	Initial Exam Team nn		0
0.5	08-31-2006	Filing date		0

Close Window

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/15/10 Paper No.: —

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/513443 Patent No.: 7814006 B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- XXX **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/James Kramer/ 11/29/10

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SEP 29 2010

OFFICE OF PETITIONS

MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

In re Patent No. 7,783,799	:	
Issue Date: August 24, 2010	:	
Application No. 11/513,635	:	NOTICE
Filed: August 31, 2006	:	
Attorney Docket No. 12454-75780	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 08/06/2010

Applicant	: Mark E. Tuttle	: DECISION ON REQUEST FOR
Patent Number	: 7658074	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/513,711	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **786** 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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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

MAILED

SEP 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Bruce A. Jaenke et al	:	
Application No. 11/513,750	:	DECISION GRANTING PETITION
Filed: August 31, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12873.05391	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3661 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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MORRISON & FOERSTER LLP
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PALO ALTO CA 94304-1018

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SEP 09 2011

OFFICE OF PETITIONS

In re Application of :
De et al. :
Application No. 11/513,756 : ON APPLICATION FOR
Filed: August 30, 2006 : PATENT TERM ADJUSTMENT
Docket No. 638772000500 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER CFR 1.705(b), filed August 16, 2011. Applicants submit that the patent term adjustment to be indicated on the patent should be two hundred sixty-four (264) days, not one hundred eighty-four (184) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The application for patent term adjustment is **DISMISSED**.

On May 25, 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 184 days. Applicants argue an 80 day adjustment should be entered, pursuant to 37 CFR 1.702(a)(2), for the delay in fully replying to their August 28, 2009 amendment.

On August 28, 2009 applicants filed a reply to a non-final Office action. On October 6, 2009, the Office mailed a restriction requirement. On March 18, 2010, the Office mailed a non-final Office action. The examiner stated in the March 18, 2010 Office action that the October 6, 2009 Office action was sent in error and is therefore, vacated.

Applicants argue the October 6, 2009 restriction requirement should be ignored and the March 18, 2010 non-final Office action be considered the response to applicants' August 28, 2009 reply.

Pursuant to 37 CFR 1.703(a)(2), the period of adjustment is 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.

Applicants argue the adjustment of 80 days begins on December 29, 2009, the date that is the day after 4 months after applicants' reply was filed, and ends on March 18, 2010, the date the Office mailed the ***second*** Office action in response.

Applicants in essence argue that the March 18, 2010 Office action "vacated" the Office action of October 6, 2009, and as such the Office action of October 6, 2009 should be treated as not having been issued for purposes of determining whether the issuance of the patent was delayed due to the failure of the USPTO to take action within 4 months of the date of applicants' filing a reply under 1.111. Applicants' argument has been considered but is not persuasive.

The vacatur of an Office action sets aside or withdraws any rejection, objection or requirement in an Office action, as well as the requirement that the applicant timely reply to the Office action to avoid abandonment under 35 U.S.C. § 133. The vacatur of an Office action signifies that the Office action has been set aside, voided, or withdrawn as of the date of the vacating Office action or notice. The vacatur of an Office action, however, does **not** signify that the vacated Office action is void *ab initio* and is to be treated as if the USPTO had never issued the Office action. The patent examination process provided for in 35 U.S.C. §§ 131 and 132 contemplates that Office actions containing rejections, objections or requirements will be issued, and that the applicant will respond to these Office action, "with or without amendment." (35 U.S.C. § 132(a)). The mere fact that an examiner or other USPTO employee upon further reflection determines that an Office action, or that a rejection, objection or requirement in an Office action, is not correct and must be removed does not warrant treating the Office action as void *ab initio* and as if the USPTO had never issued the Office action.

The USPTO appreciates that there may be situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these would be extremely rare situations, such as the issuance of an Office action or

notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance of an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application. That is simply **not** the case in this situation.

Applicants are entitled to day-to-day adjustment if the USPTO delays the issuance of a patent by failing to mail either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first, within 4 months of applicants filing a reply under 1.111. The record of the above-identified application indisputably indicates that the USPTO mailed a restriction requirement on October 6, 2009, within four months of the filing of applicants' August 28, 2009 reply. The fact that the Office later set aside the restriction requirement of October 6, 2009 does not negate the fact that an Office action was mailed on October 6, 2009. Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term adjustment, the Office action entered by the examiner on October 6, 2009, was properly used to determine whether the USPTO delayed the issuance of the above-identified patent by failing to mail either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first, within four months of the filing of applicants' reply under 1.111, per 37 CFR 1.702(a)(2). *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 *Fed. Reg.* 54366 (Sept. 18, 2000) (final rule).

The Office properly entered 0 days of patent term adjustment in connection with the mailing the restriction requirement on October 6, 2009 and the subsequent mailing of a non-final Office action on March 18, 2010, and no changes to the patent term calculation will be made.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 184 days (339 - 155).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent

term adjustment under 37 CFR 1.705(b). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, Edward K.Y. et al. :
Application No. 11/513,901 : DECISION ON PETITION
Filed: August 30, 2006 : TO WITHDRAW
Attorney Docket No. **QQ1-0210US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the address has been changed. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **MARGARET ANDERSON**
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 7,579,099	:	FINAL AGENCY DECISION
Lee et al.	:	ON
Issue Date: 08/25/2009	:	REQUEST FOR RECONSIDERATION
Application Number: 11/514,251	:	OF
Filed: 09/01/2006	:	DECISION ON APPLICATION
Attorney Docket Number:	:	FOR
SAMSDI.000GEN	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION REQUESTING RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(D)" filed on April 14, 2010, requesting reconsideration of the decision of April 6, 2010, and requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be increased by 120 days, from 85 days to 205 days.

The request for reconsideration of the decision of April 6, 2010, is granted to the extent that the decision of April 6, 2010, has been reconsidered; however, the request for reconsideration is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 85 days indicated in the decision of April 6, 2010. This decision is a final agency action within the meaning of 5 U.S.C. § 704 and for purposes of seeking judicial review. *See* MPEP 1002.02.

BACKGROUND

On September 18, 2008, a notice of allowance was mailed in the subject application.

On September 26, 2008, an amendment under 37 CFR 1.312 was filed.

On October 1, 2008, the issue fee was paid.

On July 23, 2009, the Office mailed a letter in response to the amendment under 37 CFR 1.312.

On August 25, 2009, the above-identified application matured into U.S. Patent No. 7,579,099. The Patent issued with a revised Patent Term Adjustment of 85 days.

On September 1, 2009, the initial request for reconsideration was filed. On April 6, 2010, the request for reconsideration was dismissed.

On April 14, 2010, the subject request was filed.

Patentees again disputes the reduction of 120 days under 37 CFR 1.704(c)(10) in connection with the amendment filed after the mailing of the notice of allowance.

In particular, patentees state that the amendment was filed to correct typographical errors in the claims as set forth in the Examiner's Amendment mailed on September 18, 2008, and, therefore, should not be considered to constitute a "failure to engage."

Petitioners further state, in pertinent part:

> MPEP 2732's basic statement is inconsistent with other directions from the PTO. First, the Examiner specifically required any corrections to the Examiner's Amendment to be submitted as a 312 Amendment (see beginning of the Examiner's Amendment, Attachment 2). Second, a comment does not lead to entry of an amendment to claims that are in error, but is merely placed in the file for the Examiner to use as she sees fit. Third, applicants were correcting an unauthorized amendment by the Examiner as the language in the Examiner's Amendment was at odds with the authorized amendment (compare claims 8 and 10 in Attachments 1 and 2). Fourth, in filing a Rule 705(d) Request for Reconsideration, MPEP 2734 asks for an affirmative statement that there are no circumstances constituting Applicant's failure to engage in reasonable efforts to conclude processing or examination. In the Rule 705(d) request, Applicants made such an affirmation, and the undisputed facts support that affirmation. That affirmation should rebut any presumption of Applicant's delay that would be covered by 37 CFR 1.704(c)(10). Lastly, as cited by Petitions Attorney Wood, MPEP 2732

lists reasons that are not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Reason (6) states "a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance or "Notice of Allowability[.]" This situation is exactly reason (6).

(emphasis in original)

STATUTE, REGULATIONS AND POLICY

35 U.S.C. 154(b)(2)(C) states:

REDUCTION OF PERIOD OF ADJUSTMENT.

(i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

...

(iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

37 CFR 1.704(c)(10) states:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months.

MPEP 2732 states, in pertinent part:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is **not** considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that **will** be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. The phrase "lesser of ...or [f]our months" is to provide a four-month cap for a reduction under 37 CFR 1.704(c)(10) if

> the Office takes longer than four months to issue an Office action or notice in response to the amendment under 37 CFR 1.312 or other paper.
>
> (emphasis in orginal)

OPINION

Petitioners' argument that the filing of the amendment after the mailing of the notice of allowance, filed on September 26, 2008, should not be considered a failure to engage in reasonable efforts to conclude processing or examination, is not well taken.

At the outset, it is undisputed that petitioners filed an amendment or other paper after the mailing of the notice of allowance, and that the Office did not mail a reply to the amendment or other paper within 120 days of the date the amendment or other papers was filed.

With regard to petitioners' first contention, that the examiner "required" corrections to be submitted by amendment under 37 CFR 1.312, a careful reading of the regulations, MPEP, and the examiner's amendment reveals that petitioners' argument is not persuasive. At the outset, it is noted that the Examiner's Amendment mailed on September 18, 2008, states that "[s]hould the changes and/or additions be unacceptable to applicant, an amendment **may** be filed as provided by 37 CFR 1.312."[1] Contrary to petitioner's assertion, there was no requirement from the examiner that an amendment under 37 CFR 1.312 be filed. Rather, as noted on Page 5 of the Examiner's Amendment, "[a]ny comments considered necessary by applicant must be submitted no later than the payment of the issue fee, and to avoid processing delays, should preferably accompany the issue fee." As such, the proposed corrections could have been filed as a comment, or request for correction of an error or omission in the "Notice of Allowance" or "Notice of Allowability", as specified in MPEP 2732, *supra*, to avoid a reduction in patent term adjustment.

With regard to petitioners' argument that a comment does not lead to entry of an amendment, and, thus, that the filing of an amendment under 37 CFR 1.312 was necessary in order to ensure the corrections were entered, patentee's argument is also

---

[1] See Examiner's Amendment mailed September 18, 2008, page 2 of 6.

unpersuasive.[2] As noted in MPEP 2732, *supra*, a request for correction of an error or omission in the "Notice of Allowance" or "Notice of Allowability", may be filed to correct an error yet avoid a reduction in patent term adjustment for failure to engage in reasonable efforts to conclude processing or examination. Peititoners have not shown that the error could not have been adequately addressed by a means other than filing an amendment under 37 CFR 1.312.

Turning to petitioners' assertion that there were no circumstances constituting Applicants' failure to engage in reasonable efforts to conclude processing or examination, petitioners are reminded that MPEP 2732 further states:

> 37 CFR 1.704 implements the provisions of 35 U.S.C. 154(b)(2)(C) which provides that the period of patent term adjustment under 35 U.S.C. 154(b)(1) "shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application," and specifies certain circumstances as constituting a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Further, 35 U.S.C. 154(b)(2)(C)(iii) gives the Office the authority to prescribe regulations establishing circumstances that constitute "a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application." 35 U.S.C. 154(b)(2)(C) does not require the applicant's action or inaction (that amounts to a failure to engage in reasonable efforts to conclude prosecution of the application) to have caused or contributed to patent term adjustment for the period of adjustment to be reduced due to such action or inaction.

As such, whether or not, in fact, the filing of a paper of the type identified as a "failure to engage in reasonable efforts to conclude processing or examination of an application" actually results in a delay, or whether petitioners believe the paper did, or did not, result in a delay, is not at issue. MPEP 2732 states only that the filing of a paper which is of a type specified as a paper constituting a "failure to engage in reasonable efforts to conclude processing or examination of an application" if said

---

[2] Furthermore, it should be noted that amendments filed after allowance under 37 CFR 1.312 are not entered as a matter of right and must be approved by the examiner.

type of paper has been determined by the Director to constitute a "failure to engage in reasonable efforts to conclude processing or examination of an application". Simply put, the question of whether or not the Rule 1.312 amendment filed on September 26, 2008 delayed processing or examination is not relevant to the determination that the filing of the Rule 1.312 amendment requires a reduction in patent term adjustment for applicant delay.

Lastly, petitioners argue that the amendment was essentially a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability" and should be treated as such. While the relief ultimately sought may have been correction of an error or omission in the Notice of Allowance or Notice of Allowability, the showing of record is that the paper filed on September 26, 2008, was filed and processed as an amendment after the mailing of the notice of allowance, not a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability." In this regard, the paper is titled "AMENDMENT UNDER 37 CFR 1.312," and requests that Claims 8 and 10 be amended. As such, the reduction for applicant delay under 37 CFR 1.704(c)(10) is warranted and will not be removed.

In summary, petitioners assert that they had no choice but to file a Rule 1.312 amendment to correct the errors in the Examiner's Amendment accompanying the notice of allowance, and thus the Rule 1.312 should not be considered a "failure to engage in reasonable efforts to conclude processing or examination." Peitioners' assertion is without merit, however, as patentees could have filed a request for correction of an error or omission in the "Notice of Allowance" or "Notice of Allowability", which is not considered a "failure to engage in reasonable efforts to conclude processing or examination." As such, the reduction for applicant delay occurred as a result of petitioners' action in filing an amendment, rather than because of an error on the part of the Office. The request for reconsideration is therefore denied.

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 matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Director, Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 14, 2011

TO SPE OF : ART UNIT 2112 SPE . Scott Baderman

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/514,286 Patent No.: RE41,992 E

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should claims 30-38 be deleted and claims 39-67 be renumbered as claims 30-58 as requested by applicant?
See COCIN dated 6-6-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
X **Approved in Part**	Specify below which changes **do not** apply.
Denied	State the reasons for denial below.

Comments: The cancelation of claims (30 to 38) is acceptable; however, claims can't be renumbered once they are issued.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE _____ Art Unit 2112

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/1/2011

TO SPE OF : ART UNIT 2169

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/514373 Patent No.: 7953768 B2

CofC mailroom date: 10/24/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: I recommed entry of certificate of correction.
/Greta Robinson/
Primary Examiner, Art Unit 2169

_____ _____

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/514,481	08/31/2006	Bruce J. Lindbloom	0232.0024	5321

75485 7590 01/06/2011

The Law Office of Michael E. Kondoudis
888 16th Street, N.W.
Suite 800
Washington, DC 20006

EXAMINER	
HOANG, PHI	

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
01/06/2011	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):

rlynn@mekiplaw.com
elee@mekiplaw.com

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MAIL MAIL

DEC 21 2010 DEC 21 2010

DIRECTOR'S OFFICE DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600 TECHNOLOGY CENTER 2600

The Law Office of Michael E. Kondoudis
888 16th Street, N.W.
Suite 800
Washington DC 20006

In re Application of:
LINDBLOOM, BRUCE J.
Application Serial No.: 11/514,481
Filed: August 31, 2006
For: **RE-COLORING A COLOR IMAGE**

DECISION
ON PETITION

This is a decision on the petition requesting withdrawal of the final action, filed August 25, 2010, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed May 25, 2010 final and requests withdrawal of finality of the Office action. Petitioner argues that the Office has failed to consider all the patentability arguments presented in the Applicant's previous Response to Office action dated February 3, 2010 (filed electronically EFS on February 8, 2010) and also agreed that at least claims 1, 18 and 19 as presented in the February 3 Response overcame the prior art during a telephonic interview on August 11, 2010.

A review of the file record reveals that a non-final Office action was mailed on November 12, 2009 rejecting claims 1, 2 and 12-20 as being unpatentable over Tajima in view of Morita et al., and objecting claims 3-11 as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

On February 8, 2010, applicant filed a response that included arguments to claims 1, 18 and 19.

On May 25, 2010, a final Office action was mailed rejecting claims 1, 2 and 12-20 as being unpatentable over Tajima in view of Morita et al, while objecting claims 3-11 as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims; and responding to arguments regarding claims 1, 18 and 19.

The response filed February 8, 2010 included patentability arguments relating to independent claims 1, 18 and 19, and no amendment was made to any pending claims. The final Office action mailed May 25, 2010 maintained and repeated the same ground of rejection as presented in the non-final Office action mailed November 12, 2009 and also included a response to arguments to claims 1, 18 and 19. In accordance with MPEP 706.07, the action was appropriately made final.

Petitioner argues that the Office's response failed to answer the Applicant's assertion that Tajima uses a known base color and thus cannot teach "determining an original base color" as recited in at least claims 1 and 18. The final Office action mailed May 25, 2010 addressed these arguments on pages 2-3. The issue of whether or not the reference cited for rejection is a proper reference is not a petitionable matter, but is one for appeal. That is, are the claims properly rejectable under the merits of the evidence provided? The question raised here is not one of formality as to whether the finality is pre-mature or faulty on other formal grounds, but rather, whether or not the rejection is sustainable in view of the merits of the evidence and explanation of record.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/514,481	08/31/2006	Bruce J. Lindbloom	0232.0024	5321

75485 7590 04/13/2011

The Law Office of Michael E. Kondoudis
888 16th Street, N.W.
Suite 800
Washington, DC 20006

EXAMINER	
HOANG, PHI	

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
04/13/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rlynn@mekiplaw.com
elee@mekiplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

April 13, 2011

The Law Office of Michael E. Kondoudis
888 16th Street, N.W.
Suite 800
Washington DC 20006

In re Application of :
Bruce J. Lindbloom :
Application No. 11514481 :
Filed: 8/31/2006 :
Attorney Docket No. 0232.0024 :

DECISION ON PETITION

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84(a)(2), received in the United States Patent and Trademark Office (USPTO) August 31, 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 EFS filings), and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

The paragraph was placed at the wrong location in the specification.

A renewed petition filed under 37 C.F.R. 1.84(a)(2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

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ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Burkey et al.	:	DECISION ON PETITION
Application No. 11/514,526	:	TO WITHDRAW
Filed: August 31, 2006	:	FROM RECORD
Attorney Docket No. 10022/969	:	

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 24, 2011.

The request is **NOT APPROVED**.

The request was signed by Amir N. Penn on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number, the Request must reflect withdrawal of practitioners associated with the same Customer Number.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 54205 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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/
Joan Olszewski
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.
11/514,546	09/01/2006	Lyndon Y. Ong	10.1099	5962

22474 7590 10/03/2011

Clements Bernard PLLC
1901 Roxborough Road
Suite 250
Charlotte, NC 28211

EXAMINER	
RANDHAWA, MANDISH K	
ART UNIT	PAPER NUMBER
2475	

NOTIFICATION DATE	DELIVERY MODE
10/03/2011	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):

patlaw@worldpatents.com

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Clements Bernard PLLC
1901 Roxborough Road
Suite 250
Charlotte NC 28211

In re Application of:
Ong
Application No. 11514546
Filed: September 1, 2006
For: Flexible Mechanism for Supporting Virtual Private network Services Based on Source-Independent Distributed Advertisements

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed July 12, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed April 12, 2011 as the previously submitted declaration meets the formal sufficiency and propriety requirements.

The petition is **DISMISSED**.

On July 12, 2011, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office action mailed April 12, 2011.

A review of the record indicates that on June 09, 2011, applicant filed an after final response with a rule 131 affidavit. On July 6, 2011, the examiner mailed an advisory action stating that the rule 131 affidavit was insufficient as the documents failed to show conception as only a vague and general statement was included which does not even describe in broad terms what the exhibits show. The advisory action additionally stated that the response failed to establish that the conception was in the US.

The petition argues that The exhibits A and B detail functionality of the present invention now claimed is neither vague nor general nor broad since the exhibits were the primary documents used to draft the application and that the response shows conception in the US as the company is from Baltimore.

Petitioner is reminded that a petition in dealing with an affidavit can deal with formal sufficiency and propriety and not the merits of affidavit which are appealable.

The petitionable issue here is whether or not petitioner is required to explain what the exhibits show or not, whether those exhibits show sufficient detail is an appealable issue. MPEP 715.07 clearly states that the response must clearly explain which facts or data applicant is rely on to show, thus it is reasonable for the examiner to require more than a mere general statement that the documents were used to draft the application. While Borkowski is a case dealing with reduction to practice, as such it is also deals with affidavits in general and the requirements to explain the facts in the reduction to practice arena is equally relevant to the conception arena as both deal with proving an event occurred. Thus the requirement is reasonable

The office action is correct to require that the evidence provided show conception in the US or a Nafta country. The merits of whether what was submitted is proper is an appealable issue. It should be noted that a company based in Baltimore doesn't mean all of the work is occurring in the US or a Nafta Country.

Accordingly, the petition is **DISMISSED.**

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann, QAS
Technology Center 2400
Computer Architecture, Software, and
Information Security

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 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,700,773
Issued: April 20, 2010
Application No. 11/514,548
Filed: August 31, 2006
Attorney Docket No. **OC06393US01**

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adiustment Under 37 C.F.R. §1.705(d)" filed on May 26, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 286 days to 285 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by two hundred eighty-five (285) 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 **two hundred eighty-five (285)** days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 19-0365.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,700,773 B2

DATED : April 20, 2010

INVENTOR(S) : Alan K. Mallams

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 (286) days

Delete the phrase "by 286 days" and insert – by 285 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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STUART A WHITTINGTON
3142 N.82ND WAY
MESA AZ 85207

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of :
Robert Gerald Kushner :
Application No. 11/514,562 : DECISION ON PETITION
Filed: September 1, 2006 :
Attorney Docket No. PCI-06-003 :

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 for failure to reply in a timely manner to the non-final Office action mailed July 29, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 30, 2010. A Notice of Abandonment was mailed on February 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 an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3782 for appropriate action by the Examiner in the normal course of business on the reply received April 22, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Paper No.

NEUGEBOREN O'DOWD PC
1227 SPRUCE STREET
SUITE 200
BOULDER CO 80302

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
Gregory W. Haggquist :
Application No. 11/514,700 : ON APPLICATION FOR
Filed: 08/31/2006 : PATENT TERM ADJUSTMENT
Atty Docket No. :
6000.103.01US (TT-5) :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705," filed on August 13, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 445 days to 995 days. Applicants request this correction on the basis that the patent will issue on December 7, 2010.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

In re Patent No. 7,750,207 : DECISION ON REQUEST
Wu, et al. : FOR
Issue Date: July 6, 2010 : RECONSIDERATION OF
Application No. 11/514,704 : PATENT TERM ADJUSTMENT
Filed: September 1, 2006 : and
Atty Docket No. **MONS:234US** : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 7, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and fifty-eight (758) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and fifty-eight (758) days is **GRANTED.**

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and fifty-eight (758) 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 : 7,750,207 B2

DATED : Jul. 6, 2010

INVENTOR(S) : Wu 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 (653) days

Delete the phrase "by 653 days" and insert – by 758 days--

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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA OK 74119

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OFFICE OF PETITIONS

In re Patent No. 7,773,711
Issue Date: August 10, 2010
Application No. 11/514,782
Filed: September 1, 2006
Attorney Docket No. BAI525-563/06239

DECISION ON PETITION

This is a decision on the Request For Certificate Of Correction Of Patent For PTO Mistake (37 C.F.R. 1.322(a)), filed August 26, 2010, requesting correction on the Title Pate of the subject patent to add "Pace Plc" as the assignee. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with the Petition.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests that the present Petition was submitted to add "Pace Plc" on the previously submitted PTOL-85B and that such error was PTO mistake. Accordingly, petitioner request, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to add the assignee's name.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee.* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

Section 1481.01, Correction of Assignees' Names, of the Manual of Patent Examining Procedures (MPEP) states, in part:

> "The Transmittal Form portion (PTOL-85B) of the Notice of Allowance Provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and

address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Transmittal Form (PTOL-85B)), the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.

Any request for the 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:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of patent;
(B) include a request for certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
(C) include the processing fee set forth in 37 CFR 1.17(i).

See 37 CFR §3.81(b)."

The petition states that the error in not providing the assignee's name on the front of the patent was a PTO mistake. However, a review of the Issue Fee Transmittal Form (PTO 85B) clearly reveals that the name of the assignee to be printed on the patent was ***not provided***, i.e., left blank, and the alleged error was ***not*** a PTO mistake. Section 1481.01, supra, states that assignment data printed on the patent will be based solely on the information supplied on the Issue Fee Transmittal Form (PTOL-85B).

A petition under 37 CFR §3.81(b) requires a certificate of correction fee of $100.00 (Fee Code 1811) as set forth under 37 CFR 1.20(a), and a petition processing fee of $130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i). The petition lacks both fees. For, this reason, the petition is dismissed.

Inquiries related this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,773,711 :
Issue Date: August 10, 2010 :
Application No. 11/514,782 : DECISION ON PETITION
Filed: September 1, 2006 :
Attorney Docket No. BAI525-563/06239 :

This is a decision on the renewed Request For Certificate Of Correction Of Patent Under 37 CFR §1.323, filed February 8, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **GRANTED**.

The petition decision mailed January 26, 2011, dismissed the 37 CFR §3.81(b) petition filed August 26, 2010, because petitioner failed to include a certificate of correction fee of $100.00 and a petition processing fee of $130.00 with the petition. The renewed petition includes the required fees.

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. 7,773,711.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions