UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450

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JAN 24 2011

OFFICE OF PETITIONS

Ms. Marina Portnova
Red Hat/BSTZ
Blakely, Sokoloff, Taylor & Zafman LLP
1279 Oakmead Parkway
Sunnyvale, California 94085-4040

In re Application of :
Parkinson et al. : ON PETITION
Application No. 11/514,816 :
Filed: 31 August 2006 :
Atty. Docket No. 005220.P013

This is a decision on the request for a refund under 37 CFR 1.26(a), filed May 28, 2010, which is also being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. This is also a decision on the petition under 37 CFR 1.137(b), filed April 23, 2010, to revive the above-identified application.

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

The request for a refund under 37 CFR 1.26(a) is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 12, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 13, 2009. A Notice of Abandonment was mailed July 15, 2009.

Petitioner asserts the Notice of Abandonment mailed July 15, 2009 be withdrawn as petitioner never received either the final Office action mailed December 12, 2009 or the Notice of Abandonment mailed July 15, 2009. Petitioner further asserts that the petition fee for the petition to revive the above-identified application under 37 CFR 1.137(b) should be refunded.

With respect to the petition under 37 CFR 1.181, a grantable petition to withdraw holding of abandonment under 37 CFR 1.181 based on failure to receive an Office action requires: (1) a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. This petition lacks item (1).

With respect to the request for refund under 37 CFR 1.26(a), under 37 CFR 1.26(a), the Office may refund any fee paid by mistake or in excess of that required. In the present case, it does not appear that the petition fees were paid by mistake. Rather, they were paid in pursuit of reviving the abandoned application. Additionally, an excess amount was not paid, as fee under 37 CFR 1.137(b) for those other than small entities is $1620.

With respect to the petition under 37 CFR 1.137(b), 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, a Request for Continued Examination, and the $810 filing fee; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of December 12, 2009 is accepted as having been unintentionally delayed.

Petitioner's Deposit Account No. 02-2666 is being charged the petition fee of $1620 required under 37 CFR 1.17(m) as authorized.

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.

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 (571-272-6051), or, if unavailable, the undersigned at 571-272-7099.

The application file will be forwarded to Technology Center Art Unit 2162 for further action on the filed Response.

David Bucci
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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AUG 0 6 2010

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Peter MERIN, et al	:	
Application No. 11/514,914	:	DECISION ON PETITION
Filed: September 5, 2006	:	
Docket No. 1503-0194PUS1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 20, 2009, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 21, 2009.

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

All other inquiries should be directed to the Technology Center at (571) 272-3600.

This application is being referred to Technology Center AU 3652 for appropriate action by the Examiner in the normal course of business.

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

cc: JAMES M. SLATTERY
BIRCH, STEWART, KOLASCH
& BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST, P. O. BOX 747
FALLS CHURCH, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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 :
Burhanettin Koc et al :
Application No. 11/514,950 : ON PETITION
Filed: September 5, 2006 :
Attorney Docket No. 1938.1011

This is a decision on the petition, filed October 13, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 17, 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 2837 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

Paper No.: _____

DATE : 8/2/10

TO SPE OF : ART UNIT 3754 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/515,078 Patent No.: 7,637,391

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

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

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

_____

_____

Kevin Shaver 3754

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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FUJITSU PATENT CENTER
FUJITSU MANAGEMENT SERVICES OF AMERICA, INC.
2318 MILL ROAD, SUITE 1010
ALEXANDRIA, VA 22314

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Michio Oryoji et al :
Application No. 11/515,202 : ON PETITION
Filed: September 5, 2006 :
Attorney Docket No. 06-40024

This is a decision on the petition, filed October 15, 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 28, 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

M: CARMEN & ASSOCIATES, PLLC
1201 RXR PLAZA
UNIONDALE, NY 11556

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
Elaine s. Yamaguchi, et al. :
Application No.: 11/515,209 : ON PETITION
Filed: August 31, 2006 :
Attorney Docket No.: T-6703 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 13, 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 1774 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JENSEN + PUNTIGAM, P.S.
2033 6th Ave, Suite 1020
SEATTLE WA 98121

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
William M. Leath III :
Application No. 11/515,235 : DECISION ON PETITION
Filed: September 1, 2006 :
Attorney Docket No. **1036-1** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 11, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 12, 2010.

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

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

This application is being referred to Technology Center AU 1776 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Attorney Docket Number: 2705-0819	
Application Number: 11/515,316	Filing Date (or 371(b) or (f) Date): September 1, 2006
Patent Number: 7,668,557	Issue Date: February 23, 2010
First Named Inventor: Jay Wu Hong	
Title: Methods for Ring Tone Supression Informing & for Informing a Cellular Telephone With Con	

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 08/31/2010

Applicant	: Jay Wu Hong	: DECISION ON REQUEST FOR
Patent Number	: 7668557	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/515,316	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-07-2010

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No: 11/515323Patent No 7756783

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Should claim 3 be entered, although it 's in the Examiner 's amendment.

EvaJames

Certificates of Correction Branch

703-756-1583

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.

_____

_____

_____

_____

_____

/James Kramer/ 3693

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.
11/515,328	08/31/2006	Frederick Y. Zhao	3891P	7812

29141 7590 04/12/2011

Sawyer Law Group, P.C.
P.O. Box 51418
Palo Alto, CA 94303

EXAMINER	
JOHNSTON, PHILLIP A	
ART UNIT	PAPER NUMBER
2881	

NOTIFICATION DATE	DELIVERY MODE
04/12/2011	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):

patent@sawyerlawgroup.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Sawyer Law Group, P.C.
P.O. Box 51418
Palo Alto, CA 94303

In re Application of
Frederick Zhao et al.
Appl. No.: 11/515,328
Filed: August 31, 2006
Attorney's Docket No.: 3891P
For: METHOD AND SYSTEM FOR DETECTING OR REVIEWING OPEN CONTACTS ON A SEMICONDUCTOR DEVICE

DECISION ON PETITION
UNDER 37 C.F.R. § 1.59

This is a decision on the petition under 37 C.F.R. §1.59(b), filed May 28, 2009, and supplemented on October 15, 2009, to expunge the formal drawings that were unintentionally submitted on July 17, 2007.

The petition is GRANTED.

Petitioner requests that the formal drawings, filed July 17, 2007[1], be expunged from the record because it was mistakenly filed in the instant application instead of application No. 11/515,238.

A petition to expunge materials that were submitted in an incorrect application due an unintended heading being placed on papers so that they were entered in an incorrect application file is provided by 37 CFR 1.56(b) and MPEP 724.05. III.

It is noted that the petition was filed by a third party who submitted the formal drawings. While the petition does not satisfy all the conditions for a grantable petition as outlined in M.P.E.P. § 724.05. III., removal of the formal drawings is appropriate since applicant was not the party who erroneously submitted them in the instant application.

For the above-stated reasons, the petition to expunge is granted. The formal drawings, filed July 17, 2007, are herby removed from the official file record.

[1] The formal drawings were received in the USPTO on July 20, 2007.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Joe Thomas, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ———

DATE : 12/15/10

CoC mailroom date: ———

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/515343 Patent No.: 7728117 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.

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

Comments: The C of C has been approved.

/S. A. Jiang/ 1623

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BIB DATA SHEET

CONFIRMATION NO. 5565

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/515,411	08/31/2006	455	2617	4054.1002-000

APPLICANTS

Taavet Hinrikus, Tallinn, ESTONIA;
Gareth O'Loughlin, London, UNITED KINGDOM;
Malthe Sigurdsson, London, UNITED KINGDOM;
Priidu Zilmer, Tallinn, ESTONIA;
Duncan Lamb, Tallinn, ESTONIA;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****
09/20/2006

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /DIANE D MIZRAHI/ Examiner's Signature	☑ Met after Allowance /dm/ Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		ESTONIA	10	19	4

ADDRESS

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133
UNITED STATES

TITLE

Wireless device for voice communication

FILING FEE RECEIVED		
1330	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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DAVID O. MCGOVERAN
P.O. BOX 2097
BOULDER CREEK CA 95006

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
David O. McGoveran :
Application No. 11/515,470 : DECISION ON PETITION
Filed: September 2, 2006 :
Attorney Docket No. ADAPTIVE METHOD :
AND SOFTWARE ARCHITECTURE FOR :
EFFICIENT TRANSACTION PROCESSING :
AND ERROR MANAGEMENT :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed November 2, 2011, to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to reply in a timely manner to the final Office action mailed March 1, 2010, which set a statutory period for reply of three months from the mail date of the Office action. An advisory action was mailed on September 17, 2010. A Notice of Abandonment was mailed on October 19, 2010.

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

Petitioner states that "On or about 2/10/2010 we learned that my wife's 96 year old Canadian grandmother was a victim of both physical and financial elder abuse. Until her death on July 18, 2010 we were quite literally consumed with legal work and travel in an attempt to stop, and

prevent further, abuse. We are still trying to deal with her estate and belongings, which has required four trips to Ottawa.

It was August before I was able to deal with the OA (mailed 3/1/2010) in midst of the crisis) and, given its complexity and ambiguity, it took me three solid weeks of dedicated work to research and prepare my response, mailed Aug. 29, 2010 (and received by the PTO Aug. 30, 2010).

During all this, as sole provider for my family, I have had no new income since March. I have not been able to afford a patent agent or attorney since last year. As a result, I was unaware that a Final Office Action required submission of an RCE (and additional fee) with a late response, although I did file the appropriate fee for extension of time. It was this omission that caused the application to be deemed abandoned. The oversights in my response were unavoidable given my situation, as were certain other less serious errors."

Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence that is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Further, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also* In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

The showing of record is that the delay in taking action in the above-identified application was the result of petitioner's preoccupation with other matters. Petitioner's preoccupation with other matters which took precedence over the above-identified application does not constitute unavoidable delay. *See* Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Petitioner is welcome 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.

Regrettably, in view of the above, petitioner has not carried his burden of proof in establishing that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the petition will not be granted under the provisions of 37 CFR 1.137(a).

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee set in 37 CFR 1.17(m).

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

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

By mail:

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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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. 11/515,494	:	DECISION ON PETITION
Filed: September 1, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0157US	:	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/11

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 11515504 Patent No.: 7881607

CofC mailroom date: 2/22/11

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

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.

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Kenneth Vanderpuye/ **2613**

SPE Art Unit

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FEB 09 2012
OFFICE OF PETITIONS

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

In re Application of :
James Merrill, et al. :
Application No. 11/515,539 : ON PETITION
Filed: September 5, 2006 :
Attorney Docket No.: COS-1070 :

This is a decision in response to the petition, filed January 6, 2012, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael Locklar appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Attorney Locklar desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 28, 2011 by the Board of Patent Appeals and Interferences. A Notice of Abandonment was mailed on December 20, 2011. On January 6, 2012, the present petition was filed.

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).

It is noted that the petition did not include a response in the present application to continue prosecution; however, petitioner indicates the reply to the outstanding Office action is in the form of a "Continuation Application." The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuation application.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuation application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition, as construed, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay[1].

This application is being revived solely for the purpose of continuity with Application No. 13/344,390 filed on January 5, 2012. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 13/344,390.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL LOCKLAR
4615 SW FREEWAY, SUITE 630
HOUSTON, TX 77027

[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.

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APR 14 2011

OFFICE OF PETITIONS

KILPATRICK TOWNSEND & STOCKTON LLP
ADOBE SYSTEMS, INC. 58083
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309-4530

In re Application of :
Mary Elizabeth McQuarrie, et al. :
Application No. 11/515,627 : DECISION GRANTING PETITION
Filed: September 5, 2006 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 58083/394713 (B284):

This is a decision on the petition, filed February 14, 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 31, 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 is 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 July 14, 2011 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 the undersigned at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 2178.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: CARL SANDERS
1001 W. FOURTH STREET
WINSTON-SALEM, NC 27101

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
11/515,627	09/05/2006	Mary Elizabeth McQuarrie	58083/394713 (B284)

CONFIRMATION NO. 8055

72058
Kilpatrick Townsend & Stockton LLP
Adobe Systems, Inc. 58083
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

NONPUBLICATION RESCISSION LETTER

Date Mailed: 04/08/2011

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 07/14/2011.

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".

/sdbrinkley/

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

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GENERAL ELECTRIC COMPANY
GLOBAL REASEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3A59
NISKAYUNA NY 12309

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DEC 13 2010

OFFICE OF PETITIONS

In re Application of :
Chang WEI, et al :
Application No. 11/515,653 : ON PETITION
Filed: September 6, 2006 :
Attorney Docket No. 205717-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 1, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/938,684, filed November 3, 2010.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LITMAN LAW OFFICES, LTD.
PATENT LAW BUILDING
8955 CENTER STREET
MANASSAS VA 20110

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Mark T. Radcliffe, et al.	:	
Application No. 11/515,908	:	DECISION ON PETITION
Filed: September 6, 2006	:	
Attorney Docket No. 27814.00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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, May 13, 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 14, 2009. The Notice of Abandonment was mailed November 23, 2009.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RASHIDA A KARMALI PHD
13TH FLOOR
99 WALL STREET
NEW YORK NY 10005

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of
Knight :
Application No. 11/515,922 : DECISION ON
Filed: September 5, 2006 : PETITION
Attorney Docket No.193.002 :

This is in response to the petition to revive under 37 CFR 1.137(a), filed November 29, 2010.

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.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed April 12, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 13, 2010. The Office mailed a Notice of Abandonment on November 8, 2010.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set

forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has not satisfied requirement (3) above.

With respect 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]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Petitioner argues that he did not receive the April 12, 2010 Office again because it was sent to the wrong address. According to petitioner, the Post Office was notified of the change of the address.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply), petitioner must include an adequate showing that a **timely notification of the change of address was filed** in the application concerned, and in a manner reasonably calculated to

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

call attention to the fact that it was a notification of change of address.[3]

Here, there has been no showing that petitioner timely notified the Office that he changed his address. As such, the Office properly mailed the April 12, 2010 Office action to the address of record.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is **not** precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $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 pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The 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.

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

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[3] See MPEP 601.01; See also Ray. v. Lehman, 55 F.3d 606, 34 U.S.P.Q. 2d 1786 (CAFC 1995).

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Rashida A. Karmali
99 Wall Street
23rd Floor
New York, NY 10005

UNITED STATES PATENT AND TRADEMARK OFFICE

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RASHIDA A KARMALI PHD
13TH FLOOR
99 WALL STREET
NEW YORK NY 10005

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FEB 09 2011

OFFICE OF PETITIONS

In re Application of
Knight :
Application No. 11/515,922 : DECISION ON
Filed: September 5, 2006 : PETITION
Attorney Docket No.193.002 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed December 22, 2010.

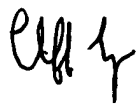
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed April 12, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 13, 2010. The Office mailed a Notice of Abandonment on November 8, 2010. Applicant filed a petition to revive under 37 CFR 1.137(a) on November 29, 2010. However, the petition was dismissed in a decision mailed on December 16, 2010.

With the instant petition, applicant paid the petition fee and made the proper statement of unintentional delay. Applicant previously filed the required reply on November 29, 2010.

The application is being forwarded to Group Art Unit 1656 for consideration of the reply, filed November 29, 2010.

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



Cliff Congo
Petitions Attorney
Office of Petitions

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

MAILED

AUG 17 2011

PCT LEGAL ADMINISTRATION

In re Application of
KNIGHT, David Phillip
Application No.: 11/515,922
Filing Date: September 05, 2006
Attorney Docket No.: KING3002
For: COMPOSITE MATERIALS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 15, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

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 for the following reasons:

The amended specification fails to state the relationship of the present application to International Application No. PCT/EP2005/002473 filed March 04, 2005. (See 37 CFR 1.78(a)(2)(i)) 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 International Application No. ---, filed---." A benefit claim that merely states: "This application claims the benefit of International Application No. ---, 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. See MPEP Section 201.11, Reference to Prior Application.

The reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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).

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

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

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
PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 26 2011

PCT LEGAL ADMINISTRATION

Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314-1176

In re Application of :
KNIGHT, David Phillip :
Application No.: 11/515,922 : DECISION ON PETITION
Filing Date: September 05, 2006 :
Attorney Docket No.: KING3002 :
For: COMPOSITE MATERIALS :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed August 23, 2011 to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed 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 international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

Application No.: 11/515,922

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment filed with the previous petition, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 28 2010
OFFICE OF PETITIONS

Fujitsu Patent Center
Fujitsu Management Services of America, Inc.
2318 Mill Road, Suite 1010
Alexandria VA 22314

In re Application of	:	
Mikio Hondou	:	
Application No. 11/515,971	:	DECISION ON PETITION
Filed: September 6, 2006	:	
Attorney Docket No. 05-50601	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 18, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 18, 2010 . Accordingly, the date of abandonment of this application is August 19, 2010. The Notice of Abandonment was mailed September 1, 2010.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Sep-10

TAFT, STETTINIUS & HOLLISTER LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI OH 45202-3957

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Tonkovich et al. : DECISION ON PETITION
Application Number: 11/516027 :
Filing Date: 09/05/2006 :
Attorney Docket Number: VEL03-GN007 :

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

The petition is **GRANTED**.

The application became abandoned on May 6, 2010, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on February 5, 2010, which set a three (3)-month statutory period for reply. On February 26, 2010, applicant attempted to submit the required fees, but counsel's deposit account contained insufficient funds to charge the entire balance due.[1] Notice of Abandonment was mailed on May 24, 2010.

Receipt of the petition fee and issue fee is acknowledged.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] Only the publication fee was paid on February 26, 2010.

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HOLTZ, HOLTZ, GOODMAN & CHICK PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

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FEB 10 2011
OFFICE OF PETITIONS

In re Application of :
Naotomo Miyamoto, et al. :
Application No.: 11/516,119 : ON PETITION
Filed: September 6, 2006 :
Attorney Docket No.: 06617/LH :

This is a decision on the petition, filed February 9, 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 11, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 1723 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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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS, LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Tomoyuki Kurihara	:	
Application No. 11/516,135	:	DECISION GRANTING PETITION
Filed: September 6, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-02392.01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of :
Christopher AMIDON, *et al.* :
Application No. 11/516,294 : DECISION GRANTING PETITION
Filed: September 6, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1104-206** :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 6, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2424 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/561,438	11/20/2006	Robert P. Morris	I409/US	7520

49277 7590 10/21/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
DAS, CHAMELI	
ART UNIT	**PAPER NUMBER**
2197	
MAIL DATE	**DELIVERY MODE**
10/21/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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John A. Demos
October 20, 2011
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/561,438
Attorney Docket Number: I409/US
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING PROGRAM RUNTIME DATA VALIDATION

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 11, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on October 11, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Gail Hayes whose telephone number is (571) 272-3591.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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MAY 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,831,237	:	
Passarella et al.	:	DECISION ON
Issue Date: November 9, 2010	:	REQUEST FOR
Application No. 11/516,470	:	RECONSIDERATION OF
Filed: September 5, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 20864US01	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d))," filed January 7, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and two (202) days to two hundred and fifty-one (251) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On November 9, 2010, the above-identified application matured into US Patent No. 7,831,237 with a patent term adjustment of 202 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

The period of adjustment of 346 days of examination delay is not in dispute.

The over three-year period of 0 days is not in dispute.

Patentee contests a single period of applicant delay. More specifically, Patentee disputes the applicability of a single reduction pursuant to 37 C.F.R. § 1.704(c)(10), as well as when said reduction should have commenced.

37 CFR 1.704(c)(10) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

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

A notice of allowance was mailed on July 9, 2010. Six sheets of replacement drawings were filed on September 22, 2010, and the application matured into a patent 48 days later on November 9, 2010. This warrants a reduction of 49 (not 48) days pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the "other paper" was filed is included in the period of delay.

Patentee argues that no reduction is warranted. **The Office holds that a reduction is warranted pursuant to 37 C.F.R. § 1.704(c)(10).**

Patentee further argues that the date on which the drawings were filed should not be included in the Rule 1.704(c)(10) calculation, and as such, the period of applicant delay that is associated with the submission of the drawings after the mailing of a notice of allowance total 48, not 49 days.

The Office holds that the day on which the drawings were filed is included in the Rule 1.704(c)(10) calculation.

Patentee will note the emphasized portion of 37 C.F.R. § 1.704(c)(10) that appears above. It follows that the proper manner of calculating the applicant delay pursuant to this Rule

is to begin "on the date the amendment under § 1.312 or other paper was filed." As such, the date on which the replacement drawings were filed is included in the period of delay.

Accordingly, Patentee is entitled to a patent term adjustment of 202 days:

	346 days of examination delay
+	0 days attributable to the Office taking in excess of 3 years to issue the patent
–	144 (5 + 31 + 59 + 49) days of Applicant delay. None of the other reductions were disputed in this petition.

In view thereof, no adjustment to the patent term will be made.

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.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.[5]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

[1] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[2] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300: please note this is a central facsimile number.
[4] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
[5] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROYLANCE, ABRAMS, BERDO & GOODMAN, LLP
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Application of :
Yoo-Seok Yoon, et al. :
Application No. 11/516,554 : DECISION ON PETITION
Filed: September 7, 2006 :
Attorney Docket No. 52026 :

This is a decision on the petition, filed July 1, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before May 22, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 22, 2011.

Petitioner asserts that the Notice of Allowance and Fee(s) Due dated February 22, 2011 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being referred to the Technology Center AU 2618 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of February 22, 2011. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquires concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning this application should be directed to the Technology Center.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUN 30 2011
OFFICE OF PETITIONS

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

In re Patent No. 7,796,741 :
Issue Date: September 14, 2010 :
Application No.: 11/516,606 : ON PETITION
Filed: September 7, 2006 :
Attorney Docket No.: 648.46583X00 :

This is a decision in response to a petition filed December 1, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OCT 04 2010

OFFICE OF PETITIONS

KELLER LAPUMA WOODARD PC IV
15154 PINECREST DRIVE
COUNCIL BLUFFS IA 51503

In re Application of	:	
Edward K.Y. JUNG, et al	:	
Application No. 11/516,689	:	ON PETITION
Filed: September 5, 2006	:	
Attorney Docket No. 0605-002-005-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 28, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 29, 2010.

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

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) 272-6735.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/516,812	09/06/2006	John M. Adams	2518-005-03	8739

996 7590 04/08/2011

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

EXAMINER	
GRAY, PHILLIP A	

ART UNIT	PAPER NUMBER
3767	

MAIL DATE	DELIVERY MODE
04/08/2011	PAPER

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

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

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

In re Application of:
ADAMS, JOHN M. et al
Serial No.: 11/516,812
Filed: Sep. 6, 2006
Docket: 2518-005-03
Title: DISPOSABLE INFUSION DEVICE WITH AUTOMATIC UNLOCKING MECHANISM

DECISION ON PETITION

This is a decision on the petition filed on June 4, 2009 to restart the Period for Response for the non-Final Office action mailed on December 5, 2008. The petition is being considered pursuant to 37 CFR 1.181. No fee is required. The delay of this decision on petition is regretted.

The petition is **DISMISSED as moot**.

Pertinent to this petition, the record shows the following:

1) On December 5. 2008, a non-Final Office Action was mailed to the applicant.
2) On June 4, 2009, a petition was filed to restart the Period for Response, the reason being because failure to receive the December 5, 2008 non- Final Office Action and only its subsequent discovery during a telephone conference on May 29, 2009 and downloaded a copy from the PAIR.
3) On June 4, 2009, the applicant filed a full response to the non-Final Office Action of December 5, 2009, including a proper Petition for Extension of Time, making the response to the December 5, 2008 non-Final Office Action timely.

In view of the prosecution history, the relief the applicant request, namely the restarting of the Period for Response, is no longer needed. This application was never abandoned and a proper, timely, response was submitted, responsive to the non-Final Office Action of December 5, 2008. It is noted that the applicant filed a RCE on December 4, 2009 pending before the examiner, and the petitioner's request for relief is moot.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3767 for consideration of the RCE and the amendment filed October 5, 2009. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED as moot.

Angela D. Hyles for
Donald T. Hajec, Director
Technology Center 3700

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

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NOV 01 2011

OFFICE OF PETITIONS

MORRIS I. POLLACK
19 EBERHAROR ROAD
EAST HANOVER NJ 07936

In re Application of :
R. Dru WHITACRE : ON PETITION
Application No. 11/516,820 :
Filed: September 7, 2006 :
Atty. Docket No.: DK-035

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to respond in a timely manner to the final Office action mailed April 13, 2011 (Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned July 14, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE), RCE fee, and submission under the provisions of 37 CFR 1.114, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

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

The application will be referred to Technology Center Art Unit 3637 for consideration of the filed submission.

Robert DeWitty
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 08 2010

OFFICE OF PETITIONS

Thomas A. La Rovere
1446 Meadowvale Road
Santa Ynez CA 93460

In re Application of :
LaRovere :
Application No. 11/516,847 : ON PETITION
Filed: September 6, 2006 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.181 filed on September 13, 2010, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on July 20, 2010, after no response was received to the Notice of Allowance and Issue Fee Due mailed April 19, 2010, which set a statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on July 20, 2010. A Notice of Abandonment was mailed on August 6, 2010.

Petitioner request that the holding of abandonment be withdrawn because petitioner mistakenly believed that petitioner needed to await confirmation of the acceptance of the amendment under 37 CFR 1.312 filed July 28, 2010, before paying the issue and publications fees as required by the Notice of Allowance and Issue Fee Due. Petitioner states that petitioner was advised by the examiner to wait for the acceptance of the amendment before paying the required fees.

Petitioner's argument is not persuasive. The record does not reveal, and petitioner does not establish, that a complete and proper reply was received within the allowable period. Petitioner was obligated to file a timely and proper response to the Notice of Allowance and Issue Fee Due. Section 711.02 of the Manual of Patent Examining Procedure, citing 37 CFR 1.135(a) states, in pertinent part, that, "...an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))." In this case, applicant failed to respond to the Notice of Allowance and Issue Fee Due, and the application was properly held abandoned on July 20, 2010.

Further, the Office regrets that the purported advisement of the examiner was inaccurate insofar as it related to delaying payment of the issue and publication fees. Petitioner is advised, however, that the business of the Office is to be transacted in writing and all proceedings are based on the written record as it exists. Accordingly, the fact that the examiner may have misinformed petitioner has no bearing on petitioner's obligation to file a timely and proper response to the Notice of Allowance and Issue Fee Due. See 37 CFR 1.2.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small

entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure : Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS A. LA ROVERE
1446 MEADOWVALE ROAD
SANTA YNEZ CA 93460

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Thomas A. La Rovere :
Application No. 11/516,847 : DECISION ON PETITION
Filed: September 06, 2006 :
Attorney Docket No. :

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

The petition is **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) 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 Tredelle Jackson at (571) 272-2783.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,691,808
Issued: April 6, 2010
Application No. 11/516,874
Filed: September 6, 2006
Attorney Docket No. **20349-564 DIV**

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on theREQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. § 1.705(d) filed on June 4, 2010, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 308 days to 428 days.

The application for patent term adjustment-post grant is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred twenty-eight (428) days.

On April 6, 2010, the above-identified application matured into U.S. Patent No. 7,691,808 with a revised patent term adjustment of 308 days. On June 4, 2010, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 428 days.

The Office initially determined a patent term adjustment of two hundred sixteen (216) days which included eighty-eight (88) days of applicant delay. However, after the issuance of the patent, additional delays were recorded that revised the Patent Term Adjustment. Pursuant to 37 C.F.R. § 1.704(c)(10), a period of reduction totaling 120 days was entered for applicant filing papers after the mailing of the notice of allowance.

Patentee disputes the reduction of 120 days due to the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the reduction in question, after the mailing of the Notice of Allowance was a "COMMUNICATION REGARDING PAYMENT OF DEFICIENT FEES", filed September 15, 2009.

37 CFR § 1.704(c)(10) provides that:

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

As stated in MPEP 2732:

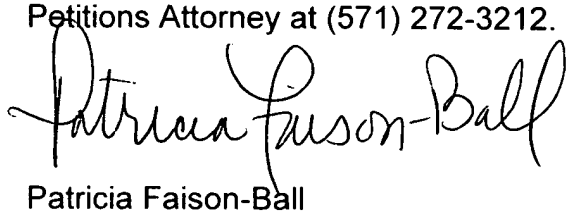
> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

A review of the application record reveals that the reduction of 120 days was based on the filing after allowance of a "COMMUNICATION REGARDING PAYMENT OF

In view thereof, the patent term adjustment indicated on the patent should have been four hundred twenty-eight **(428)** days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred twenty-eight (428) 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 : 7,691,808 B2

DATED : April 6, 2010

INVENTOR(S) : Fabrice Chimienti

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 (308) days

Delete the phrase "by 308 days" and insert – by 428 days--

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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Sagel et al.	:	
Application No. 11/516,896	:	DECISION ON PETITION
Filed: September 7, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7478C2CCL	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3), filed August 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed Applications.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

The amendment submitted with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, an amendment[1] in compliance with the above-mentioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6509.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Sagel et al.	:	
Application No. 11/516,896	:	DECISION GRANTING PETITION
Filed: September 7, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7478C2CCL	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3), filed March 23, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional applications, as set forth in the amendment.

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) the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (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 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. §120 and 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

The duplicate payment of the petition surcharge fee in the amount of $1,410, submitted on August 2, 2010, will be refunded back to petitioner's deposit account in due course.

Any questions concerning this matter may be directed to Alicia Kelley-Collier at (571) 272-6059. 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 1612 for appropriate action on the amendment submitted August 2, 2010, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications.

/Liana Walsh/
Liana Walsh
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
11/516,896	09/07/2006	1612	2450	7478C2CCL	12	1

CONFIRMATION NO. 9422

CORRECTED FILING RECEIPT

27752
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Date Mailed: 05/06/2011

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

Applicant(s)

Paul Albert Sagel, Mason, OH;
Robert Stanley Dirksing, Northbend, OH;
Frederick James Rohman, Loveland, OH;
Lisa Rae Glaser, Fairfield, OH;

Assignment For Published Patent Application

The Procter & Gamble Company, Cincinnati, OH

Power of Attorney: The patent practitioners associated with Customer Number 27752

Domestic Priority data as claimed by applicant

This application is a CON of 11/099,738 04/06/2005 PAT 7,122,199
which is a CON of 10/321,252 12/17/2002 PAT 6,884,426
which is a CON of 09/864,640 05/24/2001 ABN
which is a CON of 09/268,185 03/15/1999 ABN
which is a CIP of 09/040,000 03/17/1998 PAT 5,891,453
which is a CIP of 08/870,330 06/06/1997 PAT 5,879,691

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: 09/25/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/516,896**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

METHODS FOR WHITENING TEETH

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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LEE & HAYES, PLLC
c/o Intellevate, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/06/2010

Applicant	: Assaf Gurevitz	: DECISION ON REQUEST FOR
Patent Number	: 7660371	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/516,902	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **757** 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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MICHAEL J. URE
10518 PHIL PLACE
CUPERTINO CA 95014

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Application of :
Thomas M. Luich :
Application No. 11/516,935 : ON PETITION
Filed: September 6, 2006 :
Attorney Docket No. G060906VCO.US :

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 final Office action mailed, March 23, 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 24, 2010. A Notice of Abandonment was mailed on September 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, with the required fee of $270 and an Appeal Brief, with the required fee of $270, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal and Appeal Brief 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 Board of Patent Appeals and Interferences for processing of the response in the normal course of business.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
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 :
COHEN, Alexander J. et al. :
Application No. 11/517,027 : DECISION ON PETITION
Filed: September 07, 2006 : TO WITHDRAW
Attorney Docket No. **QQ1- 0076US** : 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/517,033	09/07/2006	Dawn E. Fraser	1760-356	1430

32905 7590 03/28/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
ROBINSON, KEITH O NEAL	

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
03/28/2011	ELECTRONIC

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

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

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

JondleOA@jondlelaw.com

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MAR 2 8 2011

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Dawn E. Frazier
Serial No.: 11/517,033
Filed: September 7, 2006
Attorney Docket No.: **1760-356**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed March 24, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on August 21, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. The material submitted to the Patent Office on November 26, 2007 is being expunged as the Office as no record of material being submitted on August 21, 2007 as noted in the Office communication of November 13, 2007.

Therefore, petitioner's petition is GRANTED.

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/517,034	09/07/2006	Dawn E. Fraser	1760-355	1431

32905 7590 03/28/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
ROBINSON, KEITH O NEAL	
ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
03/28/2011	ELECTRONIC

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

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

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

JondleOA@jondlelaw.com

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MAR 2 8 2011

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Dawn E. Frazier
Serial No.: 11/517,034
Filed: September 7, 2006
Attorney Docket No.: **1760-355**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed March 24, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on August 21, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. The material submitted to the Patent Office on August 21, 2008 is being expunged as the Office as no record of material being submitted on August 21, 2007 as noted in the Office communication of August 14, 2008.

Therefore, petitioner's petition is GRANTED.

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

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

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Jurgen Vollrath
588 Sutter Street # 531
San Francisco CA 94102

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of :
Charles Chu et al. :
Application No. 11/517,073 : DECISION ON PETITION
Filed: September 7, 2006 :
Attorney Docket No. **P06621** :

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 5, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 6, 2009.

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

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

This application is being referred to Technology Center AU 2836 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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McDermott Will & Emery LLP
11682 El Camino Real, Suite 400
San Diego, CA 92130

Mail Date: 08/04/2010

Applicant	: Wei Xiong	: DECISION ON REQUEST FOR
Patent Number	: 7660569	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/517,118	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **682** 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.
11/517,189	09/06/2006	Gregg D. Wilensky	07844-720001 / P666	9453

21876 7590 08/17/2010

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

EXAMINER	
DRENNAN, BARRY T	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
08/17/2010	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):

PATDOCTC@fr.com

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AUG 17 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Wilensky, Gregg D. *et al.* :
Serial No.: 11/517, 189 : DECISION ON PETITION
Filed: September 6, 2006 : *ACCEPTANCE OF COLOR DRAWINGS*
For: **LIVE COHERENT IMAGE SELECTION TO DIFFERENTIATE FOREGROUND AND BACKGROUND PIXELS** :

This is a decision on the petition under 37 CFR §1.84(a)(2) filed September 6, 2006 and June 29, 2010, requesting the acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1A, 1B and 1C, 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**.

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO IL 60606

MAILED
OCT 19 2010
OFFICE OF PETITIONS

In re Patent No. 7,779,982	:	DECISION ON REQUEST
Fitzgerald et al.	:	FOR
Issue Date: August 24, 2010	:	RECONSIDERATION OF
Application No. 11/517,236	:	PATENT TERM ADJUSTMENT
Filed: September 7, 2006	:	and
Atty Docket No. 247171-00454USPT	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," which is being treated as a petition pursuant to 37 C.F.R. § 1.705(d). This petition was filed on September 29, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred and forty-eight (348) 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 and seventy-one (171) days is **GRANTED to the extent indicated herein.**

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

This patent issued on August 24, 2010, with a patent term adjustment of 172 days.

[1] Petition, page 4.

The Office has determined that the patent term adjustment for the above-identified patent is **171 days**.

The Office agrees with Patentee that the examination delay totals 56 days,[2] the applicant delay totals 59 days,[3] the over-three-year period totals 351 days,[4] and the period of overlap totals zero days.[5]

However, Patentee has failed to deduct the period of appellate review that is excluded from the period of B-delay: a notice of appeal was filed on October 22, 2009, and a notice of allowance was mailed on April 16, 2010. The 177 days of the over three year period consumed by appellate review, beginning on October 22, 2009 and ending on April 16, 2010 are not included in the B-delay. See 35 U.S.C. § 154(b)(1)(B)(ii). It follows that the "B-delay" totals 174 (351 days over three years minus zero overlap minus the aforementioned excluded 177 days) days, not 351 days.

As such, the patent term adjustment is increased by 171 (56 days of examination delay plus 174 days of "B-delay" minus 59 days of Applicant delay) days, not 348 days.

The 175 day "PTA 36 Months" has been removed, and an entry of 174 days has been made in its place.

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

The Office 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, 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.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term

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[2] Id. at 2.
[3] Id.
[4] Id. at 3.
[5] Id.

of the above-identified patent is extended or adjusted by **one hundred and seventy-one (171) days**.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,779,982 B2

DATED : **August 24, 2010** **DRAFT**

INVENTOR(S) : Fitzgerald 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 172 days

Delete the phrase "by 172 days" and insert – by 171 days--

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Paper No.

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO IL 60606

MAILED
JUL 14 2011
OFFICE OF PETITIONS

In re Patent No. 7,779,982	:	DECISION ON REQUEST
Fitzgerald et al.	:	FOR
Issue Date: August 24, 2010	:	RECONSIDERATION OF
Application No. 11/517,236	:	PATENT TERM ADJUSTMENT
Filed: September 7, 2006	:	
Atty Docket No. 247171-00454USPT	:	

This is a decision on the "SECOND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed November 18, 2010. Patentee requests that the patent term adjustment be increased from one hundred and seventy-one (171) days to either three hundred and forty-eight (348) days or two hundred and twenty-five (225) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **DISMISSED**

Application No. 11/517,236 matured into U.S. patent No. 7,779,982 on August 24, 2010, with a patent term adjustment of one hundred and seventy-two (172) days. On September 29, 2010, Patentee filed a request for reconsideration of the patent term adjustment along with the $200.00 fee set forth in 37 CFR 1.18(e), 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 and forty-eight (348) days. The request was granted via the mailing of a decision on October 19, 2010, to the extent that the decision indicated that the patent term adjustment indicated on the above-identified patent is extended or adjusted by one hundred and seventy-one (171) days.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

The examination delay of 56 days, the applicant delay of 59 days, the over-three-year period of 351 days, and the period of overlap of zero days are not in dispute.

With this renewed petition, Patentee has made three arguments. None is persuasive. A discussion follows.

First, Patentee has argued that the B-delay should total 175, and not 174 days. The second page of the decision on the original petition indicated, *in pertinent part*:

> …Patentee has failed to deduct the period of appellate review that is excluded from the period of B-delay: a notice of appeal was filed on October 22, 2009, and a notice of allowance was mailed on April 16, 2010. The 177 days of the over three year period consumed by appellate review, beginning on October 22, 2009 and ending on April 16, 2010 are not included in the B-delay. See 35 U.S.C. § 154(b)(1)(B)(ii). It follows that the "B-delay" totals 174 (351 days over three years minus zero overlap minus the aforementioned excluded 177 days) days…

Patentee has arrived at 175 days because he has erroneously included the date on which the notice of appeal was filed in the period of B-delay.[2] The filing of the notice of appeal is the first day of the excluded appellate period. As such, the last day of B-delay that is prior to the commencement of the appellate excluded period is October 21, 2009, and not October 22, 2009.

Second, Patentee has argued that the deduction of the period of appellate review was erroneous, since "the Examiner allowed the applicant (sic) after the Applicants' filed an appeal brief but before the Examiner had filed an Answer," and therefore, "jurisdiction never (emphasis included) passed to the Board."

Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal

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[1] Renewed petition, page 7, section III.
[2] Renewed petition, page 2.

to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 177 days, beginning on October 22, 2009, the date of filing of the notice of appeal and ending on April 16, 2010, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 174 (351 days over three years minus zero overlap minus 177 excluded days) days.

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

Third, Patentee has argued that an additional period of examination delay which totals 53 days is appropriate: a notice of appeal was filed on October 22, 2009 and a notice of allowance was mailed four months and 53 days later on April 16, 2010. This argument is not persuasive. Patentee will note that pursuant to 37 C.F.R. § 1.703(a)(4), the four-month period commences not with the filing of the notice of appeal, but rather with the filing of an appeal brief that is in compliance with 37 C.F.R. § 41.37 (December 22, 2009 in this instance).

In view thereof, the patent term adjustment of 171 days as set forth in the mailing of October 19, 2010 is correct.

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) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 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: 47004.000420	
Application Number: 11/517,268	Filing Date (or 371(b) or (f) Date): 09/08/2006
Patent Number: 7,801,814	Issue Date: 09/21/2010
First Named Inventor: Cataline, et al.	
Title: System And Method For Selectable Funding Of Electronic Transactions	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date 11/22/2010
Name (Print/Typed) Robert A. King	Registration Number 42,738

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

☐ *Total of _____ forms are submitted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 12/01/2010

Applicant	: Glen R. Cataline	: DECISION ON REQUEST FOR
Patent Number	: 7801814	: RECALCULATION of PATENT
Issue Date	: 09/21/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/517,268	: OF WYETH
Filed	: 09/08/2006	:
		:

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

Date Mailed :March 24, 2011
Patent No. : 7,782,286 B2
Ser. No. :11/517,347
Issued August 24, 2010
Inventor(s) : Hsueh-Ying Huang
Title : RESCUE CIRCUIT LINE, DISPLAY DEVICE HAVING THE SAME AND METHOD FOR MANUFACTURING THE SAME

Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

Paul C. Lewis
Birch, Stewart, Kolasch & Birch, LLP
8110 Gatehouse Rd., Ste. 100 East
P.O. Box 747
Falls Church, VA 22040

MD/mt

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.

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
JUL 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Huang	:	
Application No. 11/517,347	:	
Filing Date: September 8, 2006	:	DECISION ON PETITION
Patent No. 7,782,286	:	PURSUANT TO 37 C.F.R.
Issue Date: August 24, 2010	:	§ 3.81(B)
Attorney Docket Number: 4443-0301PUS1	:	
Title: RESCUE CIRCUIT LINE, DISPLAY DEVICE HAVING THE SAME AND METHOD FOR MANUFACTURING THE SAME	:	

This is a decision on the petition filed April 14, 2011, which is being treated as a petition pursuant to 37 C.F.R. § 3.81(b),[1] to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED.**

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner has requested that the geographical location of the Assignee should be changed from "Hsinchu, Taiwan (CN)" to "Hsinchu (TW)"

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) 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

1 See Official Gazette, June 22, 2004.

> 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.

Petitioner has not set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent. However, it is noted that Office records indicate that the assignment was received in the Office on September 14, 2006, and as such, this requirement of 37 C.F.R. § 3.81(b) is waived, *sua sponte*.

Moreover, it is noted that the Office erred in not listing the geographical location as "Hsinchu (TW)." As such, the requirements for the $130 processing fee and the $100 certificate of correction fee are waived.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, correcting the Assignee information to "Hsinchu (TW)."

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 27, 2011

TO SPE OF : ART UNIT 2624
SUBJECT : Request for Certificate of Correction for Appl. No. 11/517563 patent No.:7848597
C of C mailroom date:--04-18-11

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: _____

_____

_____

_____

_____

/Jason Repko/ — 2624
SPE — **Art Unit**

Formatted: Bullets and Numbering

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/27/11

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 11517570 Patent No.: 7520047

CofC mailroom date: 01/10/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Li M-Gutto SPE AU 2855

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/04/11

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 11517599 Patent No.: 7622272

CofC mailroom date: 12/28/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes to Foreign Patent Documents 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: _____

Misook Yu — 1643

Misook Yu

SPE — **Art Unit**

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CARL L. ROGERS
7019 DICKSON WAY
MISSOURI CITY TX 77489

MAILED

SEP 0 1 2011

OFFICE OF PETITIONS

In re Application of :
Carl L. Rogers et al. :
Application No. 11/517,609 : DECISION ON PETITION
Filed: April 10, 2007 :
Title of Invention: CABARB DELUXE PEANUTCHIPS

This is a decision on the "Petition to revive and/or withdraw the holding of abandonment under both 37CFR 1.137(a) or (b) and also under 37 CFR 1.181" filed August 15, 2011.

The petition under 37 CFR 1.137(a) is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **DISMISSED**.
The petition under 37 CFR 1.181 is **DISMISSED**.

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

This application became abandoned for failure to file a response to the non-Final Office Action mailed February 18, 2010 which set a three month period for response. Accordingly, a Notice of Abandonment was mailed June 13, 2011.

At the outset, while petitioner argues that "he has answered each and every peice of correspondence coming from the Patent Office to date" and petitioner cites 37 CFR 1.137(a) and 37 CFR 1.137(b) as potential basis' for the delay in filing a timely response, no petition fees have been submitted with the petition as required under 37 CFR 1.137(a) and 37 CFR 1.137(b) and therefore the petition will not receive any treatment under those regulations.

As to petitioner's claim that a response was filed and thus the abandonment should be withdrawn under 37 CFR 1.181, a review of the record reveals that a response was filed June 21, 2010 however without a proper extension of time and fee, thus, the response was not timely and the application properly became abandoned.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[1], 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).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARL L. ROGERS
7019 DICKSON WAY
MISSOURI CITY TX 77489

MAILED

JAN 11 2012

OFFICE OF PETITIONS

In re Application of
Carl L. Rogers et al.
Application No. 11/517,609
Filed: April 10, 2007
Title of Invention: CABARB DELUXE PEANUTCHIPS

DECISION ON PETITION

This is a decision on the "RENEWED PETITION/REQUEST TO WITHDRAW HOLDING OF ABANDONMENT" filed December 21, 2011.

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

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

This application became abandoned for failure to file a response to the non-Final Office Action mailed February 18, 2010 which set a three month period for response. Accordingly, a Notice of Abandonment was mailed June 13, 2011. A petition filed August 15, 2011 was both treated under 37 CFR 1.137(a), 37 CFR 1.137(b) and 37 CFR 1.181, and dismissed in a decision mailed September 1, 2011 because no petition fees were submitted with the petition as required under 37 CFR 1.137(a) and 37 CFR 1.137(b) and therefore the petition could not receive any treatment under those regulations. Secondly, although a response was filed June 21, 2010 but without a proper extension of time and fee, the response was not timely and the dismissal advised that the application properly became abandoned and therefore the holding of abandonment could not be withdrawn.

Comes now petitioner with the instant renewed petition arguing that while not intentional, the abandonment was due to his incarceration and his wife's lack of understanding. In this instance, unfortunately, neither of those reasons/explanations is a sufficient basis for the withdrawal of the holding of abandonment.

Finally, petitioner is advised that this matter is not before THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS and this decision is governed by the statutes, rules and regulations promulgated by Congress as it relates to Patent matters. The statutes, rules and regulations do not provide for any special dispensation, leniency or relief such as requested by petitioner.

As previously advised, petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[1], 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).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
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 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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P.O. Box 1450
Alexandria, VA 22313-1450
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SQUIRE, SANDERS & DEMPSY L.L.P
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Andreas Kieke	:	
Application No. 11/517,622	:	DECISION ON PETITION
Filed: September 8, 2006	:	
Attorney Docket No. 102064.00014	:	

This is a decision on the petition, filed October 6, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED.**

This application was held abandoned for failure to reply to the Notice of Allowability mailed April 22, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 6, 2010.

Petitioner asserts that the Notice dated April 22, 2010 was not received. Petitioner contends that "[a]pplicant submitted a "Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address" on October 28, 2009. The new correspondence address was for Wayne Jones at the Law Offices of Wayne Jones."

A review of the written record indicates that no irregularity in the mailing of the Notice of April 22, 2010. In this regard, the Office received a power of attorney and change of address request (Request) on October 28, 2008, prior to the mailing of the Notice of April 22, 2010. However, the change of address was not accepted because none of the boxes was checked to indicate to enter the change of address. See page 2 of the Request. Therefore, the office records were not updated to reflect the requested change of address. Petitioner should also note that the Request was signed by Andreas Hieke as an Assignee of Record. However, the Request was not accompanied by the required statement under 37 CFR 3.73(b) establishing Andreas Hieke as the assignee of record.

Accordingly, as the Notice was mailed properly to the correspondence address of record, the instant petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

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

The file does not indicate a proper 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.

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 Terri Johnson at (571) 272-2991.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc **Wayne Jones**
Law Offices of Wayne Jones
748 Christine Drive
Palo Alto, CA 94303

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MAILED
JUL 12 2011
OFFICE OF PETITIONS

Wayne Jones
Law Offices of Wayne Jones
748 Christine Drive
Palo Alto CA 94303

In re Application of	:	
Andreas Hieke	:	
Application No. 11/517,622	:	DECISION ON PETITION
Filed: September 8, 2006	:	
Attorney Docket No. 102064.00014	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 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 22, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 22, 2010. Accordingly, the date of abandonment of this application is July 23, 2010. The Notice of Abandonment was mailed August 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

The change of address submitted on May 31, 2011 was not accepted because it was not signed by an attorney of record.

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

cc: **JONES IP GROUP**
2225 E. BAYSHORE ROAD
SUITE 205
PALO ALTO, CA 94303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8-13-10**

TO SPE OF : ART UNIT **2189**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11517743** Patent No.: **7390262**

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Reginald G. Bragdon/ 2189
SPE **Art Unit**

28 SEP 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Application of	:
Kim et al.	:
Application No. 11/517,896	: DECISION ON PETITION
Filed: September 8, 2006	:
Attorney Docket No.: 5020-1-007	: UNDER 37 CFR 1.78(a)(3)
For: Tower Top Amplifier Directly And Detachably Attached To Antenna	:

This is a decision on the petitions filed on 23 September 2009 and 26 July 2010, which are being treated together 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(s) set forth in the amendment filed on March 18, 2009. The petition is **DISMISSED**, without prejudice.

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

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

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

The petition fails to satisfy requirement (1). The amendment filed on 23 September 2009 would not be acceptable because it provides no indication per 37 CFR 1.121(b) of what changes or additions are to be made (the amendment contains an instruction to "amend" but does not state

whether or what text is to be added, deleted or replaced. The 02 August 2010 amendment is defective because it is not based on the application as amended on 26 July 2010, and because it indicates an incorrect international filing date for PCT/KR2004/001230. The amendment filed on 26 July 2010 would be acceptable absent the amendment filed 02 August 2010.

Regarding requirement (2), the surcharge fee required by 37 CFR 1.17(t) has been submitted.

With respect to requirement (3), the petition contains 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." This satisfies 37 CFR 1.78(a)(3).

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and either an amendment (complying with 37 CFR 1.121) cancelling the amendment to the specification filed on 02 August 2010 or a proper substitute amendment stating the relationship of the prior-filed application to the instant application is required.

The petition states that "applicant respectfully request to revive PCT application for the purpose of establishing the continuity under 35 U.S.C. 120 and claim a priority therefrom." However, no relevant petition under 37 CFR 1.137(b) has been filed. Clarification 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
(571) 272-3283

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 02 2011

PCT LEGAL ADMINISTRATION

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Application of
Kim et al.
Application No. 11/517,896
Filed: September 8, 2006
Attorney Docket No.: 5020-1-007
For: Tower Top Amplifier Directly And Detachably Attached To Antenna

: 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 05 October 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/KR2004/001230, filed 24 May 2004, set forth in the amendment filed on 26 July 2010, in view of the amendment submitted 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 above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in

that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii)(specifically, in view of the Decision mailed on 28 September 2010, the amendment filed on 02 August 2010 has been canceled); (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 petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT 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 instant 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to George Dombroske at the number provided below. 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 the examiner of Technology Center Art Unit 2617 for appropriate action on the amendments filed 26 July 2010 and 05 October 2010, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
(571) 272-3283

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : December 27, 2011

In re Application of :

Qian Xu

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11517942

Filed : 08-Sep-2006

Attorney Docket No : KM0451.005A

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 27, 201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2485 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	11517942
Filing Date	08-Sep-2006
First Named Inventor	Qian Xu
Art Unit	2485
Examiner Name	RICHARD TORRENTE
Attorney Docket Number	KM0451.005A
Title	DISTRIBUTED JOINT SOURCE-CHANNEL CODING OF VIDEO USING RAPTOR CODES

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 N. Weiss/
Name	David N. Weiss
Registration Number	41371

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 13 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,787,907	:	
Zeinstra et al.	:	DECISION ON REQUEST FOR
Issue Date: August 31, 2010	:	RECONSIDERATION OF
Application No. 11/517,946	:	PATENT TERM ADJUSTMENT
Filed: September 8, 2006	:	
Attorney Docket No. 026032-5084	:	
Title: SYSTEM AND METHOD FOR USING SPEECH RECOGNITION WITH A VEHICLE CONTROL SYSTEM	:	

This is a decision on the petition filed on September 24, 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 two hundred seventeen (217) days.

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

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 103 (19 + 84) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 357 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed January 27, 2009. The reduction of 294 days commenced April 7, 2008; the date that the Notice of Appeal was filed, and ended May 5, 2008, the day the Notice of Allowance was mailed. See, 37 CFR 1.703(b)(4).

Patentee's delay totals 159 days.

In view thereof, the patent is entitled to an overall adjustment of 0 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.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Reichenberger appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Reichenberger desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Reichenberger, 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 Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Cc: Karl F. Reichenberger
FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INNOVATION COUNSEL LLP
21771 STEVENS CREEK BLVD.
STE. 200A
CUPERTINO CA 95014

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of :
Charles Julian Ray et al :
Application No. 11/517,970 : DECISION ON PETITION
Filed: September 8, 2006 : UNDER 37 CFR 1.313
Attorney Docket No. DEEP16856 US :

This is a decision on the petition under 37 CFR 1.313, filed June 14, 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 may want to consider filing under 37 CFR 1.313(c)(2) in compliance with 37 CFR 1.114.

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) 272-3208.

/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

INNOVATION COUNSEL LLP
21771 STEVENS CREEK BLVD.
STE. 200A
CUPERTINO CA 95014

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Charles Julian Ray et al :
Application No. 11/517,970 : DECISION GRANTING PETITION
Filed: September 8, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DEEP16856 US :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed June 16, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner is encouraged to note 37 CFR 1.4(c) when submitting papers with distinct subject matters.

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

Petitioner is advised that the issue fee paid on June 8, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed request under 37 CFR §1.48.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ASHOK TANKHA
36 GREENLEIGH DRIVE
SEWELL NJ 08080

MAILED
FEB 06 2012
OFFICE OF PETITIONS

In re Application of :
Eladevi Mahendra Shah :
Application No. 11/517,986 : DECISION ON PETITION
Filed: September 11, 2006 : TO WITHDRAW
Attorney Docket No. PRO-SE : 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 10, 2012.

The request is **APPROVED**.

The request was signed by Ashok Tankha on behalf of all the practitioners of record.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Eladevi Mahendra Shah at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Eladevi Mahendra Shah
50 Elmcroft Crescent
London NW 11 9SY
United Kingdom

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
11/517,986	09/11/2006	Eladevi Mahendra Shah	PRO-SE

CONFIRMATION NO. 2844

Ashok Tankha
36 Greenleigh Drive
Sewell, NJ 08080

POWER OF ATTORNEY NOTICE

OC000000052390107

Date Mailed: 02/06/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2012.

- 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.

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/517,986	09/11/2006	Eladevi Mahendra Shah	PRO-SE

CONFIRMATION NO. 2844

Eladevi Mahendra Shah
50 Elmcroft Crescent
London NW, 11 9SY
UNITED KINGDOM

POA ACCEPTANCE LETTER

OC000000052390109

Date Mailed: 02/06/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2012.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Smith & Hopen, P.A.
Attn: General Patent Matters
180 Pine Avenue North
Oldsmar FL 34677

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Bornemann	:	
Application No. 11/518,012	:	DECISION ON PETITION
Filed: September 11, 2006	:	PURSUANT TO
Attorney Docket No. 2474.01	:	37 C.F.R. § 1.137(B)
Title: CELL SPRAYING DEVICE,	:	
METHOD AND SPRAYED CELL	:	
SUSPENSION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 22, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed August 7, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 8, 2007. A notice of abandonment was mailed on March 19, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, the required statement of unintentional delay, and a power of attorney.

The first and second 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]

Regarding the third requirement, Applicant has not established that the entire period of delay was unintentional. It is noted that the present petition was not filed until more than three years and nine months had passed since the mailing of the notice of abandonment. It is not clear why the Applicant chose to take no course of action for such a long period of time. It does not appear that any action was taken to further the prosecution of this application, subsequent to the mailing of the notice of abandonment on March 19, 2008, for more than three years and nine months.

As such, it appears that the Applicant intentionally allowed this application to remain abandoned.
A discussion follows.

In order for a petition under 37 C.F.R. § 1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 C.F.R. § 1.137(b).

The periods of delay:

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. § 1.137(b):

---

1 See Rule 1.137(d).

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for period (2).[2]

As to Period (2), where the applicant deliberately chose not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 C.F.R. § 1.137(b).[3]

The language of both 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 C.F.R. § 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated clear that any protracted delay (here, more than three years and nine months) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in

---

2 As to Period (1), a review of the electronic record shows that on April 7, 2008, the Applicant submitted a letter to the Office via facsimile transmission which acknowledges receipt of the notice of abandonment and contains an assertion that the non-final Office action of August 7, 2007 was not received.

3 See MPEP § 711.03(c).

seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. **A statement is required from both the Applicant and the attorney of record,[4] explaining why this petition was not filed sooner. It must be explained why no response was submitted to the non-final Office action of August 7, 2007 for such an extended period of time.**

Moreover, Applicant and the present attorney of record must each explain what prompted the decision to advance the prosecution of this application after the passage of so much time. A statement from each is required.

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, each of these issues will need to be addressed, and statements from the Applicant and the attorney

4 It is noted that Petitioner is listed as an attorney of record as a result of the submission of a Power of Attorney concurrently with this petition. Therefore, it is not clear whether Petitioner, Nilay J. Choksi, Reg. No. 65,795, has firsthand knowledge of the facts and circumstances regarding the entire delay in the filing of this petition.

of record must be included, if it is to be established that the entire period of delay was unintentional.

Petitioner is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

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. § 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Thereafter, there will be no further reconsideration of this matter.[5]

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9] If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[10] All other inquiries concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

5 If, on request for reconsideration, Applicant fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. § 1.137(e), will **not** apply to that decision.
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300; please note this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
10 Applicant 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, Applicant is reminded that no telephone discussion may be controlling or considered authority for Applicant's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Smith & Hopen, P.A.
Attn: General Patent Matters
180 Pine Avenue North
Oldsmar FL 34677

MAILED
APR 04 2012
OFFICE OF PETITIONS

In re Application of :
Bornemann :
Application No. 11/518,012 : REQUEST FOR MORE
Filed: September 11, 2006 : INFORMATION
Attorney Docket No. 2474.01 :
Title: CELL SPRAYING DEVICE, :
METHOD AND SPRAYED CELL :
SUSPENSION :

This letter is being mailed in response to a renewed petition pursuant to 37 C.F.R. § 1.137(b) filed March 13, 2012, requesting reconsideration of a prior decision on a petition pursuant to 37 C.F.R. § 1.137(b).

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed August 7, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 8, 2007. A notice of abandonment was mailed on March 19, 2008.

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.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on December 22, 2011, along with an amendment, the petition fee, the required statement of unintentional delay, and a power of attorney. The original petition pursuant to 37 C.F.R. § 1.137(b) was dismissed via the mailing of a decision on January 13, 2012, which indicated the first and second requirements of Rule 1.137(b) have been met, the fourth requirement of Rule 1.137(b) is not applicable, and the third requirement has not been satisfied.

The decision further indicated two items would need to be provided on renewed petition: specifically, a statement from the Applicant and Petitioner.

With this renewed petition, Petitioner has included a statement from Petitioner and an individual named Jorg Gerlach. A statement from the sole inventor has not been included with this renewed petition. The relationship of Mr. Gerlach to this application is unclear. He is not listed as an inventive entity, however it is noted that on the executed declaration that was included on initial deposit, the sole inventor directed that all correspondence be directed to Mr. Gerlach. Moreover, in correspondence submitted to the Office on November 3, 2006, Mr. Gerlach identified himself as both "owner" and "correspondence," however Office records do not show the recordation of any assignment associated with this application. Still further, although Mr. Gerlach is not listed in Office records as being a registered practitioner, it is noted that the electronic record contains correspondence between him and the Examiner, and it contains references to telephonic discussions between these two individuals: as such, it appears that Mr. Gerlach might have been prosecuting this application on behalf of the sole inventor[1] prior to the power of attorney that was

1 For instance, the aforementioned correspondence of November 3, 2006 contains the signature of Mr. Gerlach, it discusses a concurrently submitted substitute specification and foreign filing, and it contains an inquiry directed towards "my (emphasis added) non-publication request," in reference to a non-publication request that was received on September 11, 2006 and executed by the sole inventor.

submitted on December 22, 2011, despite the fact that he does not appear to be registered to practice before the Office.

Petitioner will be provided with a period of **ONE MONTH** to supply the following items to the Office:

A statement from the sole inventor addressing the following:

1. Why was the original petition not filed sooner?
2. What prompted the decision to advance the prosecution of this application after the passage of so much time?
3. What is Mr. Gerlach's relationship to this application? Was Mr. Gerlach prosecuting this application before the Office? Is Mr. Gerlach an unlisted joint inventor? Is Mr. Gerlach an assignee?
4. Prior to the submission of the Power of Attorney on December 22, 2011, who had the responsibility to prosecute this application: Mr. Gerlach or the sole inventor?

A statement from Mr. Gerlach addressing the following:

1. What is Mr. Gerlach's relationship to this application? Was Mr. Gerlach prosecuting this application before the Office? Is Mr. Gerlach an unlisted joint inventor? Is Mr. Gerlach an assignee?
2. In his statement of facts submitted concurrently with this renewed petition, Mr. Gerlach refers to this application as "my case" and indicates he did not find the failure to receive Office correspondence to be unusual due to his understanding that "the patent process takes several years." What prompted Mr. Gerlach to contact "Smith & Hopen in Fall 2011" to prosecute this application? Prior to the submission of the Power of Attorney on December 22, 2011, who had the responsibility to prosecute this application: Mr. Gerlach or the sole inventor?

A statement from Petitioner addressing the following:

1. In his statement of facts submitted concurrently with this renewed petition, Petitioner indicates he was contacted by "Applicants to take over responsibility for a patent application...Applicants provided funding...Applicants frequently engaged our office in communications." Precisely who is Petitioner referring to when he makes reference to "Applicants," *i.e.* in prosecuting this application on behalf of the sole inventor, is Petitioner

conducting communications with the sole inventor, Mr. Gerlach, or both?
2. What does Petitioner understand Mr. Gerlach's relationship to this application to be?

Petitioner is hereby provided with a period of **ONE MONTH** to submit each of the three required statements discussed above. **This time period is not extendable.** After the decision on the response to this request for more information, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The failure to submit each of these three statements addressing each of these matters will be considered an intentional effort to delay the revival of this application, and a final agency action denying the revival request will be issued.

The response to this inquiry should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned. Telephone inquiries regarding *this request for more information* should be directed to the undersigned at (571) 272-3225.[6]

Paul Shanoski
Senior Attorney
Office of Petitions

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300: please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/22/2011

TO SPE OF : ART UNIT 2624 Le Vu spe / Abolfazl, TAbataba'i

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/518036 Patent No.: 7711166

CofC mailroom date: 4/7/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: ~~The certificate of correction filed on April 22, 2001~~ is being approved.

/Samir Ahmed/
SPE

2624
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.
11/518,040	09/08/2006	David W. Mendenhall	238170	4038

23460 7590 06/08/2011

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

EXAMINER	
DUVERNE, JEAN F	

ART UNIT	PAPER NUMBER
2839	

NOTIFICATION DATE	DELIVERY MODE
06/08/2011	ELECTRONIC

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

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

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

Chgpatent@leydig.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110603

DATE : June 03, 2011

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction on Patent No.: 7,625,216

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

Changes are acceptable

/TULSIDAS PATEL/
Supervisory Patent Examiner.Art Unit 2839

UNITED STATES 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

DEC 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,489,395 :
Issue Date: 02/10/2009 :
Application No. 11/518,195 : ON PETITION
Filed: 09/11/2006 :
Attorney Docket No. 520.41907CC4 :

This is a decision on the PETITION FOR SUSPENSION OF THE RULES AND CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323, filed April 22, 2010, which is properly treated as a petition under 37 CFR 3.81(b).

Patentees request correction of the front page of the Letters Patent to include the correct assignee data via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form and paid the requisite fees. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee data is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction as to the assignment information.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA SOLUTIONS, INC.
IP LAW DOCKETING
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBAURG IL 60196

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of	:	
OKUNEV	:	
Application No. 11/518,212	:	DECISION ON PETITION
Filed: September 11, 2006	:	
Attorney Docket No. SBL02416	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 6, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 6, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) a statement of unintentional delay.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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James Edward Ledbetter
1875 Eye Street
Suite 1200
Washington DC 20006

MAILED
OCT 26 2011
OFFICE OF PETITIONS

In re Application of :
Koga et al. :
Application No. 11/518260 :
Filing or 371(c) Date: 09/11/2006 :
Title of Invention: :
COMMUNICATION APPARATUS AND :
COMMUNICATION METHOD : ON PETITION

This is a decision on the "Request to Withdraw Erroneous Holding of Abandonment,", filed October 14, 2011. The request is properly treated under 37 C.F.R. § 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 30, 2011. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on July 1, 2011. A Notice of Abandonment was mailed October 7, 2011.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action, including a request and fee for a three (3) month extension of time, was filed on September 30, 2011.

Review of Office Records

A review of Office records reveals that the Office received an Amendment in reply to the Office action and a three month extension fee on September 30, 2011.

Conclusion

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 2611 for processing of the amendment and remarks, and for continued examination in due course.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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 : March 12, 2012

In re Application of :

Adam Cheyer

Application No : 11518292

Filed : 08-Sep-2006

Attorney Docket No : P9938US1

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 12, 2012

The request is **APPROVED.**

The request was signed by Amir H. Raubvogel (registration no. 37070) on behalf of all attorneys/agents associated with Customer Number 71191 . All attorneys/agents associated with Cusotmer Number 71191 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	Apple Inc.
Name2	Attn: Patent Department
Address 1	1 Infinite Loop
Address 2	M/S 36-2PAT
City	Cupertino
State	CA
Postal Code	95014
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

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

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11518292
Filing Date	08-Sep-2006
First Named Inventor	Adam Cheyer
Art Unit	2194
Examiner Name	LECHI TRUONG
Attorney Docket Number	P9938US1
Title	METHOD AND APPARATUS FOR BUILDING AN INTELLIGENT AUTOMATED ASSISTANT

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 71191

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Apple Inc. Attn: Patent Department
Address	1 Infinite Loop M/S 36-2PAT
City	Cupertino
State	CA
Postal Code	95014
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Amir H. Raubvogel/
Name	Amir H. Raubvogel
Registration Number	37070

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

TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Mail Date: 08/05/2010

Applicant	: Shahriar Rahman	: DECISION ON REQUEST FOR
Patent Number	: 7660318	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/518,332	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **443** 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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YAHOO! INC.
C/O OSTROW KAUFMAN LLP
555 FIFTH AVENUE
19TH FLOOR
NEW YORK, NY 10017

MAILED

FEB 23 2012

OFFICE OF PETITIONS

In re Application of :
Seung-Taek Park, et al. :
Application No. 11/518,378 : ON PETITION
Filed: September 7, 2006 :
Attorney Docket No.: 600189-267 :

This is a decision on the petition, filed January 23, 2012, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed September 23, 2011, requiring legible text of a chemical item on page 15, within paragraph 66 of the specification of September 7, 2006. A Notice of Abandonment was mailed on December 9, 2011. On January 23, 2012, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a clean copy of the equation shown at page 15, paragraph 66 of the specification; (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to oversee the review of the response filed January 23, 2012 and for processing into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/11

TO SPE OF : ART UNIT 2895

SUBJECT : Request for Certificate of Correction for Appl. No.: 11518385 Patent No.: 7851294

CofC mailroom date: 02/07/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director's/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/N. Drew Richards/ 2895

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bambi Faivre Walters, PC
P.O. Box 5743
Williamsburg, VA 23188

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of :
John A. LANZALOTTI :
Application No. 11/518,432 :
Filed: September 11, 2006 :
Attorney Docket No. **2010-473-JLPAT-002** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 2, 2011.

The request is **APPROVED**.

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

The request was signed by Bambi Walters on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

[All future communications from the Office will be directed to the first named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 13, 2011 that requires a reply from the applicant.

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

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

cc: **JOHN LANZALOTTI, MD**
3510 MOTT LANE
WILLIAMSBURG, VA 23185

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/11

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/518,476 Patent No. 7,889,212

CofC mailroom date 13/4/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

/Xiao Wu/
2628

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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PEPPER HAMILTON LLP
ONE MELLON CENTER 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application	:	
Reich, et al.	:	
Application No. 11/518,524	:	DECISION ON APPLICATION
Filed: September 8, 2006	:	FOR PATENT TERM ADJUSTMENT
Patent No. 7,674,895	:	
Issued: March 9, 2010	:	

This is a decision on the petition under 37 CFR 1.705(d), filed April 29, 2010. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred eighty (680) days to six hundred fourteen (614) days.

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

The Office determined a patent term adjustment of six hundred eighty (680) days based on an adjustment for PTO delay of four hundred ninety-eight (498) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR § 1.703(a)(1), and one hundred eight-two (182) days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR § 1.703(b), reduced by zero (0) days of applicant delay.

However, Patentees point out that they should have been assessed Applicant delay for filing a supplemental response. The Office mailed a non-final Office action on May 28, 2009. Applicants filed a reply on June 23, 2009. Subsequently, Applicants filed an IDS on August 28, 2009. Accordingly, pursuant to 37 CFR 1.704(c)(8), sixty-six (66) days of Applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment is **six hundred fourteen (614) days** (680 (498+182) days of PTO delay, reduced by 66 days of applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment 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 **six hundred fourteen (614)** days subject to any disclaimers.

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

Anthony Knight
Director
Office of Petitions

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

Application Number*: 11518524 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11518524

Application Filing Date	09/08/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	03/09/2010	Non-Overlapping USPTO Delays:	680
A Delays	498	PTO Manual Adjustment:	-66
B Delays	182	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	614

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
97	09/19/2010		P028	Adjustment of PTA Calculation by PTO		66	0
92.5	03/09/2010	09/08/2009	PTA36M	PTA 36 Months	182		0
92	03/09/2010		PTAC	Patent Issue Date Used in PTA Calculation			0
91	12/15/2009		EFDC	Export to Final Data Capture			0
90	12/10/2009		D1935	Dispatch to FDC			0
89	12/10/2009		PILS	Application Is Considered Ready for Issue			0
87	12/01/2009		N084	Issue Fee Payment Verified			0
86	12/01/2009		IFEE	Issue Fee Payment Received			0
85	10/08/2009		MM327	Mail Miscellaneous Communication to Applicant			0
84	10/07/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
83	09/29/2009		FIDC	Finished Initial Data Capture			0
82	09/14/2009		CRFT	Sequence Forwarded to Pubs on Tape			0
81	09/10/2009		R1021	Receipt into Pubs			0
80	09/04/2009		EIDC	Export to Initial Data Capture			0
79	09/04/2009		MM327	Mail Miscellaneous Communication to Applicant			0
78	09/02/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
75	09/01/2009		MN/=.	Mail Notice of Allowance			0
74	08/29/2009		IREV	Issue Revision Completed			0
73	08/29/2009		DVER	Document Verification			0
72	08/29/2009		EX.A	Examiner's Amendment Communication			0
71	08/29/2009		N/=.	Notice of Allowance Data Verification Completed			0
70	08/29/2009		DOCK	Case Docketed to Examiner in GAU			0
69	08/28/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
68	08/28/2009		CNTA	Notice of Allowability			0
59	06/26/2009		FWDX	Date Forwarded to Examiner			0
65	06/23/2009		IDSC	Information Disclosure Statement considered			0
64	06/23/2009		IDSC	Information Disclosure Statement considered			0
63	06/23/2009		IDSC	Information Disclosure Statement considered			0
62	06/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
61	06/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
60	06/23/2009	06/23/2009	M844	Information Disclosure Statement (IDS) Filed			58
58	06/23/2009		A...	Response after Non-Final Action			0
57	06/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
56	05/28/2009		MCTNF	Mail Non-Final Rejection			0
55	05/26/2009		CTNF	Non-Final Rejection			0
44	04/22/2009		FWDX	Date Forwarded to Examiner			0
43	04/20/2009		ELC.	Response to Election / Restriction Filed			0
42	03/20/2009	11/08/2007	MCTRS	Mail Restriction Requirement	498		-1
41	03/16/2009		CTRS	Requirement for Restriction / Election			0
40	03/16/2009		DOCK	Case Docketed to Examiner in GAU			0
39	09/15/2008		C.AD	Correspondence Address Change			0
38	08/27/2008		DOCK	Case Docketed to Examiner in GAU			0
49	11/07/2007		IDSC	Information Disclosure Statement considered			0
36	11/07/2007		M844	Information Disclosure Statement (IDS) Filed			0
35	11/07/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
50	10/19/2007		IDSC	Information Disclosure Statement considered			0
34	10/19/2007		M844	Information Disclosure Statement (IDS) Filed			0
32	10/19/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
52	08/03/2007		IDSC	Information Disclosure Statement considered			0
51	08/03/2007		IDSC	Information Disclosure Statement considered			0
31	08/03/2007		RCAP	Reference capture on IDS			0
30	08/03/2007		M844	Information Disclosure Statement (IDS) Filed			0
29	08/03/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
28	08/03/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
53	07/23/2007		IDSC	Information Disclosure Statement considered			0
27	07/23/2007		RCAP	Reference capture on IDS			0
26	07/23/2007		M844	Information Disclosure Statement (IDS) Filed			0
25	07/23/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
23	06/28/2007		PG-ISSUE	PG-Pub Issue Notification			0
19	05/04/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
18	04/17/2007		OIPE	Application Dispatched from OIPE			0
17	04/16/2007		OIPE	Application Dispatched from OIPE			0
16	03/20/2007		PGPC	Sent to Classification Contractor			0
15	03/20/2007		COMP	Application Is Now Complete			0
7	03/14/2007		CRFE	CRF Is Good Technically / Entered into Database			0
12	03/05/2007		FLFEE	Payment of additional filing fee/Preexam			0
10	03/05/2007		SES	Small Entity Statement (37 CFR 1.27)			0
9	03/05/2007		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
8	03/05/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
54	02/02/2007		IDSC	Information Disclosure Statement considered			0
22	02/02/2007		RCAP	Reference capture on IDS			0
20.7	02/02/2007		M844	Information Disclosure Statement (IDS) Filed			0
20	02/02/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
5	09/25/2006		L128	Cleared by L&R (LARS)			0
4	09/25/2006		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	09/25/2006		CLSS	CASE CLASSIFIED BY OIPE			0
2	09/22/2006		SCAN	IFW Scan & PACR Auto Security Review			0
1	09/08/2006		IEXX	Initial Exam Team nn			0

Export to: Excel

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NOV 25 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,017,739
Issued: September 13, 2011
Application No. 11/518,558
Filed: September 8, 2006
Attorney Docket No: 14503-0006001

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on November 14, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 498 to 482 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of FOUR HUNDRED THIRTEEN days.

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

On September 13, 2011, the above-identified application matured into U.S. Patent No. 8,017,739 with a patent term adjustment of 498 days. On November 14, 2011, Patentees submitted the instant application. Patentees disclose that the patent term adjustment of 498 days indicated on the front of the patent is incorrect because Patentees filed Information Disclosure Statements on April 5, 2010, subsequent to a reply filed on March 24, 2010 (12 days), on May 4, 2010, subsequent to a reply filed on April 5, 2010 (29 days), on January 31, 2011, subsequent to a reply filed on January 11, 2011 (20 days), on February 2, 2011, subsequent to a reply filed on January 31, 2011 (2 days) and on June 22, 2011, subsequent to a reply filed on May 31, 2011 (22 days). Patentees argue that they were accorded 0 days delay for the supplemental responses. In good faith and candor, Patentees submit that the supplemental responses should have been accorded a total Applicant Delay of 85 days for delay. See 37 C.F.R. § 1.704(c)(8).

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 213 days (i.e., the sum of 31 + 4+ 90 + 3 + 12 + 29 + 20 + 2 + 22 days)."

Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on July 7, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 69 day period from July 7, 2011 (the mailing date of the Notice of Allowance) until September 13, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 69 days and be increased from 196 to 265 days. Patentee concludes that the correct patent term adjustment is 482 days (the sum of 430 days of "A delay" and 265 days of "B delay" minus 213 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
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> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

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

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered. The Information Disclosure Statements filed April 5, 2010, May 4, 2010, January 31, 2011, February 2, 2011, and June 22, 2011 were supplemental to the filing of previous responses. In this instance, the filing of the Information Disclosure Statements on April 5, 2010, May 4, 2010, January 31, 2011, February 2, 2011, and June 22, 2011 are considered a failure to engage under 1.704(c)(8). The Information Disclosure Statements were not expressly requested by the examiner nor did they include a 1.704(d) statement.

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 85 days is being entered.

As it relates to the calculation of "B delay, 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 196 days based on the application having been filed under 35 U.S.C. 111(a) on September 8, 2006 and the patent not having issued as of the day after the three year date, September 8, 2009, and requests

for continued examination under 132(b) having been filed on March 24, 2010, January 20, 2011 and May 31, 2011. In other words, the 69-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application,

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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.

including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period

does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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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.

clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on May 31, 2011, and the patent issued by virtue of that request on September 13, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 31, 2011 and ending on September 13, 2011 is not included in calculating Office delay.

CONCLUSION

As such, the patent term adjustment is 413 days (430 "A delay" days plus 196 "B delay" days minus 213 Applicant delay days), not 482 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred thirteen (413)** 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 : 8,017,739 B2

DATED : September 13, 2011

INVENTOR(S) : Wolfram Eichner

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 (498) days

Delete the phrase "by 498 days" and insert – by 413 days--

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7275490	2007-10-02	11518572	2006-09-08	1418.003

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WBUSKOP/	Date (YYYY-MM-DD)	2011-10-12
Name	Wendy Buskop	Registration Number	32202

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7275490
Issue Date: October 2,2007
Application No. 11518572
Filed: September 8,2006
Attorney Docket No. 1418.003

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

This is a decision on the electronic petition, filed October 12,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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	11518679
Filing Date	11-Sep-2006
First Named Inventor	Jeffrey Bruner
Attorney Docket Number	30879.001US7
Title	Composite elastomeric yarns and fabric

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

Petition Fee

- ○ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ○ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ◉ Applicant(s) status remains as SMALL ENTITY.
- ○ Applicant(s) status remains as other than SMALL ENTITY.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ◉ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○	I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on
○	Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒	STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉	An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
○	An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
○	A sole inventor
○	A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
○	A joint inventor; all of whom are signing this e-petition
○	The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Stanislav Antolin/
Name	Stanislav Antolin
Registration Number	34979

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date December 31, 2011

In re Application of Jeffrey Bruner

Application No. 11518679

Filed: 11-Sep-2006

Attorney Docket No. 30879.001US7

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), December 31, 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 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 aresponse; (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.

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

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 27 2011
OFFICE OF PETITIONS

HENRY I SCHANZER
29 BROOKFALL RD
EDISON NJ 08817

In re Application of :
Flam, et al. :
Application No. 11/518,681 : ON PETITION
Filed: September 11, 2006 :
Attorney Docket No. FLAM2A-C :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 6, 2011.

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

The holding of abandonment is **WITHDRAWN**.

This application became abandoned by operation of law for failure to timely filed a reply to the Notice to File Corrected Application Papers, mailed July 15, 2011. This Notice set a non-extendable period for reply of two months to file corrected drawings. No corrected drawings having been received in the application, the application became abandoned on September 16, 2011. The Office mailed a Notice of Abandonment on September 28, 2011.

Petitioner contends that he did timely file corrected drawings on July 25, 2011. A review of the drawings reveals that they were directed to application No. 11/581,681.

As set forth in the Manual of Patent Examining Procedure § 724.05:

> Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g. application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

Here, apart from the application number, the response did contain the correct identifying information (specifically the inventor's name, the filing date, and the Examiner's name). In addition, applicant included a copy of the Notice to File Corrected Application Papers, which did contain the correct appliaction number. Accordingly, it is concluded that the Office could have determined the correct application file for which the response was intended.

In view thereof, the holding of abandonment is withdrawn.

The reply filed on July 25, 2011 has been removed from application No. 11/581,681 and placed into the instant application.

The application is being forwarded to the Office of Data Management, using the corrected drawings filed on July 25, 2011 (a copy of which was submitted with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 22 2011

OFFICE OF PETITIONS

Polster, Lieder, Woodruff & Lucchesi, L.C.
12412 Powerscourt Dr. Suite 200
St. Louis MO 63131-3615

In re Application of :
R. Lee WILLIAMS et al. : ON PETITION
Application No. 11/518,691 :
Filed: September 11, 2006 :
Atty. Docket No.: LECT9397U1 :

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

The petition is **GRANTED**.

The application went abandoned for failure to reply in a timely manner to the non-final Office action mailed November 16, 2009, which set a shortened statutory period for reply of three (3) months. No reply was received, and no extensions of time under 37 CFR 1.136(a) were obtained. The application became abandoned on February 17, 2010. A Notice of Abandonment was mailed May 27, 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 mailed November 16, 2009, (2) a petition fee of $810 (small entity), and (3) a statement of unintentional delay. The reply to the non-final Office action is accepted as having been unintentionally delayed.

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

The application file will be referred to Technology Center Art Unit 1791 for further action on the filed Response.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,785,330
Issued: August 31, 2010
Application No. 11/518,775
Filed: September 11, 2006
Dkt. No.: 1671-0371

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on October 11, 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 534 days.

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

The above-identified application matured into U.S. Patent No. 7,785,330 on August 31, 2010. The patent issued with a patent term adjustment of 414 days. The instant application for patent term adjustment was timely filed. Patentees contest the reduction of 120 days assessed in connection with the December 28, 2009 submission.

Review of the record reveals the document submitted December 28, 2009 to be a response to the Notice of Allowance. As 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" is not deemed a failure to engage in reasonable efforts to engage in reasonable efforts to conclude processing or prosecution of an application, the reduction of 120 days has been restored.

Further review of the record reveals that the period of adjustment pursuant to 37 CFR 1.702(b) is 26 days and not 27 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period began on September 12, 2009 and ended October 7, 2009, the day before the RCE was filed, and not October 8, 2009. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 26 days not 27 days.

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 533 days (509 days pursuant to 37 CFR 1.702(a) + 26 days pursuant to 37 CFR 1.702(b) – two days pursuant to 37 CFR 1.704).

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

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 533 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,785,330

DATED : **August 31, 2010** **DRAFT**

INVENTOR(S) : Sherman, 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 414 days

Delete the phrase "by 414 days" and insert – by 533 days--

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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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BIOTECH BEACH LAW GROUP , PC
5677 OBERLIN DRIVE, SUITE 204
SAN DIEGO, CA 92121

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Lanny L. Johnson :
Application No. 11/518,800 : ON PETITION
Filed: September 11, 2006 :
Attorney Docket No.: LJO-12U1 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 29, 2010, as required by the Notice of Allowance and Fee(s) Due mailed August 27, 2010. A Notice of Abandonment was mailed on December 10, 2010. On December 14, 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 the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
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: 102281.57679US	Patent Number: 7,657,647
Filing Date (or 371(b) or (f) Date): September 12, 2006	Issue Date: February 02, 2010
First Named Inventor: Takehiro ONOMATSU	
Title: Client Server System	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 09/14/2010

Applicant	: Takehiro Onomatsu	: DECISION ON REQUEST FOR
Patent Number	: 7657647	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/519,004	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **784** 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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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.
11/519,154	09/12/2006	Eiji Takahashi	TGW-0208	6636

74384 7590 05/12/2011

Cheng Law Group, PLLC
1100 17th Street, N.W.
Suite 503
Washington, DC 20036

EXAMINER	
BAND, MICHAEL A	

ART UNIT	PAPER NUMBER
1723	

MAIL DATE	DELIVERY MODE
05/12/2011	PAPER

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

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

UNITED STATES 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:

In re application of	:	
Eiji Takahashi, et al.	:	DECISION ON
Serial No. 11/519,154	:	PETITION
Filed: September 12, 2006	:	
For: SILICON DOT FORMING METHOD AND SILICON DOT FORMING APPARATUS	:	
	:	

This is a response to the REQUEST TO CORRECT INVENTORSHIP UNDER RULE 37 CFR § 1.48 filed on August 06, 2010.

Petitioners request amendment of the inventorship to add Yuichi SETSUHARA. In support of the petition, a request to correct the inventorship that sets for the desired inventorship change; a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; an oath or declaration by the actual inventors as required by § 1.63; the processing fee set forth in §1.17(i); and the written consent of the assignee have been filed.

A review of the record reveals that petitioner has complied with all the conditions in 37 CFR § 1.48(a). The petition is granted. A correct filing receipt naming the actual inventors of the above-identified patent, namely, Eiji TAKAHASHI, Takashi MIKAMI, Shigeaki KISHIDA, Kenji KATO, Atsushi TOMYO, Tsukasa HAYASHI, Kiyoshi OGATA, and Yuichi SETSUHARA.

The Petition is **GRANTED**.

/Alexa D. Neckel/

Alexa Neckel
Supervisory Patent Examiner
Art Unit 1723

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-19-11

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/519166 Patent No.: 7752775

CofC mailroom date: 02-03-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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 /Khoa D. Huynh/ **Art Unit** 3765

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SOFER & HAROUN LLP.
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

MAILED

SEP 0 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Yajima et al.	:	
Application No. 11/519,215	:	DECISION ON PETITION
Filed: September 11, 2006	:	
Attorney Docket No. 773-013c	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 27, 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 28, 2009. See MPEP 1215.04. A Notice of Abandonment was mailed March 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2613 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

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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Neugeboren O'Dowd PC
1227 Spruce Street
SUITE 200
BOULDER CO 80302

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of :
Hauer et al. :
Application No. 11/519,242 : LETTER AND NOTICE
Filed: September 11, 2206 : OF ABANDONMENT
Attorney Docket No. AE2003-003 :
For: RF POWER CONTROL DEVICE FOR
RF PLASMA APPLICATIONS

A renewed petition under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration, was received in the United States Patent and Trademark Office (Office) on March 1, 2011.

This petition was filed in response to the July 20, 2010 decision on petition, which dismissed applicants' prior petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 and set a two month extendable period for response. A RCE and amendment and a petition for a two month extension of time were filed on March 1, 2011, when the present renewed petition was filed. The RCE and amendment and petition for a two month extension of time appear to have been filed in response to the October 28, 2010 final Office action.

Section 1.135(b) of the Code of Federal Regulations states, in relevant part: "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."

Because petitioners failed to file a renewed petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 prior to the maximum extendable period for response, **this application is properly held abandoned as of September 21, 2010.**

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $490.00 extension of time fee submitted with the petition on March 1, 2011 was filed subsequent to the expiration of the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

Under the circumstances of this application, petitioners must file a petition to revive under 37 CFR 1.137 and pay the proper petition fee within **ONE (1) month** of this decision before the petition under 37 CFR 1.47 may be addressed on its merits. No extensions of time are permissible. Unless petitioners can demonstrate that petitioners were "unavoidably" prevented from submitting a complete reply to the petition decision of July 20, 2010, a petition under 37 CFR 1.137(b) is suggested. The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 will remain in the file until such time as petitioners have filed a grantable petition to revive under 37 CFR 1.137.

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Neugeboren O'Dowd PC
1227 Spruce Street
SUITE 200
BOULDER CO 80302

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
Hauer et al. :
Application No. 11/519,242 : ON PETITION
Filed: September 11, 2206 :
Attorney Docket No. AE2003-003 :
For: RF POWER CONTROL DEVICE FOR
RF PLASMA APPLICATIONS

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 4, 2011, and the constructive renewed petition, filed April 4, 2011, under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.

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

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **GRANTED**.

This application became abandoned on September 21, 2010 for failure to timely respond to the July 20, 2010 decision on petition, which dismissed applicants' prior petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 and set a two month extendable period for response.

Petitioners have submitted a renewed petition in response to the July 20, 2010 decision on petition, an acceptable statement of the unintentional nature of the delay in responding to the July 20, 2010 decision on petition, and the $1,620.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

Petitioners have established that copies of the above-identified application and a supplemental declaration were mailed to the three non-signing joint inventors, Bhutta, Decker, and Osselbaum. Petitioners have established that Bhutta refused in writing to cooperate and that Decker and Osselbaum constructively refused to cooperate by failing to respond to the request that they execute and return the supplemental declaration. In view of the refusal by the three joint inventors to sign the supplemental declaration, it is agreed that justice would be served by waiving the requirement for their signature on the supplemental declaration filed on June 11,

2010. The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

This application is being forwarded to Technology Center G.A.U. 2821 for consideration of the Request for Continued Examination filed on March 1, 2011.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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LAW OFFICE OF DALE B. HALLING
3595 FOUNTAIN BOULEVARD SUITE A2
COLORADO SPRINGS CO 80910

MAILED

MAY 13 2011

OFFICE OF PETITIONS

In re Application of :
VANDERSLUIS, Kirstan A. :
Application No. 11/519,324 : DECISION ON PETITIONS
Filed: September 12, 2006 : UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. XAW0101C1 : 37 CFR 1.181

This is a decision on the petition filed March 22, 2011, under 37 CFR 1.78(a)(3) requesting acceptance of an unintentionally delayed claim for benefit of an earlier filed application under 35 U.S.C. § 120, and (2) as a petition under 37 CFR 1.181 requesting that the delayed claim for priority under 35 U.S.C. § 120 be accepted without the associated fee.

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

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

WITH RESPECT TO 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.

The petition lacks item (2) above.

The petition does not authorize the fee required by 37 CFR 1.17(t). Accordingly any renewed petition must clearly be captioned for relief under 37 CFR 1.78(a)(3) and either include the fee or clearly authorize its charge to a deposit account.

WITH RESPECT TO THE SURCHARGE REQUIRED BY 37 CFR 1.78(a)(3)(ii) AND 37 CFR 1.17(t).

Petitioner argues that the delay in claiming priority was due in part to the USPTO's failure to inform applicant that the priority data in the application was not accepted. Petitioner argues that the USPTO never mailed a filing receipt and therefore applicant was not informed. Petitioner states "if applicant had received a Filing Receipt he would have had plenty of time to correct the priority data without having to file a Petition under 1.78 and the associated fee."

The filing receipt is provided under 37 CFR 1.54 to inform applicant of the application number and filing date, not to inform applicants of a defect in a priority claim.

Petitioner may consider filing a petition under 37 CFR 1.183.

> § 1.183 Suspension of rules.
> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

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 Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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3595 FOUNTAIN BOULEVARD SUITE A2
COLORADO SPRINGS CO 80910

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of :
VANDERSLUIS, Kirstan :
Application No. 11/519,324 : DECISION DISMISSING PETITIONS
Filed: September 12, 2006 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: XAW010C1 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 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.

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 fails to satisfy item (1) above. A nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. 119(e) must be filed within 12 months from the filing date of the provisional application. Here, the serial number 10/077,259 given for the provisional patent application is incorrect. Application serial number 10/077,259 is for a nonprovisional application filed on February 14, 2002. Petitioner should provide the correct serial number for the provisional application.

In reviewing the chain of applications to which petitioner is seeking a claim for priority, it does not appear that application serial number 10/077,259 shares an inventor in common with application serial number 11/519,324. *See* MPEP 201.11 IV. Same inventor or inventors.

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the 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 addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Bucci
Petitions Examiner
Office of Petitions

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3595 FOUNTAIN BOULEVARD SUITE A2
COLORADO SPRINGS CO 80910

MAILED
SEP 13 2011
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In re Application of	:	
VANDERSLUIS, Kirstan	:	
Application No. 11/519,324	:	DECISION DISMISSING PETITIONS
Filed: September 12, 2006	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: XAW010C1	:	

This is a decision on renewed the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 24, 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 fails to satisfy item (1) above. A nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. 119(e) must be filed within 12 months from the filing date of the provisional application. Here, the serial number 09/264,101 given for the provisional patent application is incorrect. Application serial number 09/264,101 is not a provisional application and can not claim priority unto itself. MPEP 201.11 requires at least one nonprovisional application and one provisional application filed within 12 months of each other and sharing a common inventor and disclosure.

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 addressed as follows:

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

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Bucel
Petitions Examiner
Office of Petitions

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COLORADO SPRINGS CO 80910

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OFFICE OF PETITIONS

In re Application of :
VANDERSLUIS, Kirstan :
Application No. 11/519,324 : DECISION DISMISSING PETITIONS
Filed: September 12, 2006 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: XAW010C1 :

This is a decision on renewed the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 17, 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 petition.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1). The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a

separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

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 addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Jose G Dees
Petitions Examiner
Office of Petitions

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JUN 06 2011

OFFICE OF PETITIONS

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

In re Application of :
Odeh : DECISION ON PETITION
Application No. 11/519,328 :
Filed: September 11, 2006 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 9, 2011.

The Notice of Abandonment mailed April 26, 2011 indicates that the application is abandoned for failure to timely submit a proper reply to the non-final Office action mailed October 18, 2010.

Petitioner asserts that a reply was timely filed April 18, 2011.

The reply filed April 20, 2011, bearing a certificate of mailing date of April 18, 2011, has been located in the official application file.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Group Art Unit 2614 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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c/o: Greenberg Traurig LLP - Chicago Office
77 West Wacker Drive, Suite 3100
Intellectual Property Department
Chicago IL 60601

MAILED
MAR 20 2012
OFFICE OF PETITIONS

In re Application of
Benkley et al.
Application No. 11/519,362
Filed: September 11, 2006
Attorney Docket No. 123625.011400
Title of Invention: METHOD AND APPARATUS FOR FINGERPRINT MOTION TRACKING USING AN IN-LINE ARRAY FOR USE IN NAVIGATION APPLICATIONS

DECISION ON PETITION

This is in response to the "PETITION TWO WAIVE INVENTOR SIGNATURE REQUIREMENT ON A DECLARATION UNDER 1.63 IN A PATENT APPLICATION UNDER 37 CFR §1.47(b)". This petition is properly treated as a waiver under 37 CFR 1.183 of requirement for a fully executed supplemental Declaration under 37 CFR 1.67 filed February 4, 2012.[1]

The petition is **Dismissed**.

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

The above-identified application was filed on September 11, 2006. An executed declaration was submitted on December 1, 2006. Applicants have filed this petition as a result of the objection to the declaration in the child application (11/957,311). A review of the instant application shows that the declaration filed December 1, 2006 did not meet the requirements of 37 CFR 1.63 (a)(4).

When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. It is appropriate to

[1] Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the re-execution of another oath or declaration by an inventor who executed the original declaration.

apply the principles of 37 CFR 1.47 thereof to the situation at hand. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate and on behalf of the non-signing inventor. See MPEP 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

In order for a petition under 37 CFR 1.183 to be granted to waive the requirement that inventors Benkley and Geoffroy sign the supplemental declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioner has shown that inventors Benkley and Geoffroy have refused to join in the filing of the supplemental declaration. The petition attest a copy of the supplemental declaration was sent to the inventors. The non-signing inventors' failure to return the supplemental declaration is being construed as refusal to execute the supplemental declaration.

However, a review of the declaration submitted on petition shows that an executed declaration which meets the requirements under 37 CFR 1.63 (a)(4) has not been provided. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

The Office is in receipt of the $200.00 petition fee. However, the petition fee for a petition considered under 37 CFR 1.183 is $400.00. Accordingly, deposit account no. 50-2638 will be charged the $200.00 difference.

It is noted that the issue fee was paid February 4, 2012. While the petition decision provides applicant with a non-extendable two month reply period, this does not act as a stay of other proceedings like publication of the patent. See 37 CFR 1.181(f). A petition to withdraw the application from issuance pursuant to 37 CFR 1.314 may be an option for applicant.

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

By mail:

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P.O. Box 1450

	Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Correspondence may also be submitted by the electronic filing system (EFS).

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

Charlema Grant
Attorney Advisor
Office of Petitions

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c/o: Greenberg Traurig LLP - Chicago Office
77 West Wacker Drive, Suite 3100
Intellectual Property Department
Chicago IL 60601

MAILED
MAR 30 2012
OFFICE OF PETITIONS

In re Application of :
Benkley et al. : DECISION ON PETITION
Application No. 11/519,362 :
Filed: September 11, 2006 :
Attorney Docket No. 123625.011400 :
Title of Invention: METHOD AND :
APPARATUS FOR FINGERPRINT MOTION :
TRACKING USING AN IN-LINE ARRAY :
FOR USE IN NAVIGATION :
APPLICATIONS :

This is in response to the renewed petition seeking a waiver under 37 CFR 1.183 of requirement for a fully executed supplemental Declaration under 37 CFR 1.67 filed March 24, 2012 and supplemented March 26, 2012.

The petition is **GRANTED**.

The above-identified application was filed on September 11, 2006. An executed declaration was submitted on December 1, 2006. Applicants have filed this petition as a result of the objection to the declaration in the child application (11/957,311). A review of the instant application shows that the declaration filed December 1, 2006 did not meet the requirements of 37 CFR 1.63 (a)(4).

When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. It is appropriate to apply the principles of 37 CFR 1.47 thereof to the situation at hand. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate and on behalf of the non-signing inventor. See MPEP 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

In order for a petition under 37 CFR 1.183 to be granted to waive the requirement that inventors Benkley and Geoffroy sign the supplemental declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioner has shown that inventors Benkley and Geoffroy have refused to join in the filing of the supplemental declaration. The petition attest a copy of the supplemental declaration was sent to the inventors. The non-signing inventors' failure to return the supplemental declaration is being construed as refusal to execute the supplemental declaration.

A declaration executed by a person having apparent authority to execute on behalf of the assignee of record has been submitted on renewed petition.

The Office is in receipt of the $400.00 petition fee.

This application does not have any Rule 1.47 status and no such status should appear on the record for this file.

The application is being forwarded to the Office of Data Management for further processing in the normal course of business.

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

/Charlema Grant/

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED Paper No.
JUL 12 2011
OFFICE OF PETITIONS

GREENBERG TRAURIG, LLP (SV)
c/o: Greenberg Traurig LLP - Chicago Office
77 West Wacker Drive, Suite 3100
Intellectual Property Department
Chicago IL 60601

In re Application of	:	
Benkley et al.	:	DECISION ON
Application No. 11/519,383	:	PETITION PURSUANT TO
Filed: September 11, 2006	:	37 C.F.R. § 1.182
Attorney Docket No. 123625.011500	:	
Title: METHOD AND APPARATUS FOR FINGERPRINT MOTION TRACKING USING AN IN-LINE ARRAY	:	

This is in response to the petition filed on May 13, 2011 pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer.

This petition is **GRANTED**.

On August 17, 2010, Petitioner submitted a terminal disclaimer to overcome a non-statutory double patenting rejection over pending U.S. application number 12/103,655 in a non-final Office action mailed December 11, 2009.

With this petition, Petitioner has submitted the petition fee and a request that the terminal disclaimer that is associated with U.S. application number 12/103,655 be withdrawn.

The Examiner has reviewed Petitioner's request, and has determined that the previously filed terminal disclaimer should be withdrawn. A Miscellaneous Office Communication has been included with this decision.

The previously filed terminal disclaimer is hereby **WITHDRAWN**.

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 present application can receive further processing in due course.

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

Encl. Miscellaneous Office Communication

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 any further action(s) of Petitioner.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/519,383	11 September 2006	BENKLEY ET AL.	123625.011500

GREENBERG TRAURIG, LLP (SV)
c/o: Greenberg Traurig LLP - Chicago Office
77 West Wacker Drive, Suite 3100
Intellectual Property Department
Chicago, IL 60601

EXAMINER	
DAVID ZARKA	
ART UNIT	**PAPER**
2624	20110706

DATE MAILED:

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

Commissioner for Patents

The terminal disclaimer pertaining to 12/103,655, filed Aug. 17, 2010, should be withdrawn.

/DAVID ZARKA/
Primary Examiner, Art Unit 2624

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DR. JAMES J. KENT
861 E JUANITA AVE.
GLENDORA CA 91740

MAILED

APR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Kent et al.	:	
Application No. 11/519,498	:	DECISION ON PETITION
Filed: September 12, 2006	:	
Title: EXECUTIVE STYLE PROGRESSIVE OPHTHALMIC LENS	:	

This is a decision on the petition under 37 CFR 1.137(a), filed October 6, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application based on previously submission of the reply.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) of January 27, 2010, which set a one (1) month shortened statutory period for reply. A reply was due on or before February 27, 2010.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a Certified Mail receipt, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on July 26, 2010. A copy of the previously submitted reply accompanies the petition.

The reply of July 26, 2010 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Petitioner, however, has not submitted an itemized post card receipt with the instant application number identified. It is therefore impossible to determine what exactly was received by the USPTO on July 26, 2010 and if it was intended for the instant application.

Further, a five-month extension of time was necessary for the July 26, 2010 reply to be considered timely. A review of the USPTO finance records associated with the instant application does not disclose that the $1175.00 fee was received.

Petitioner will need to provide an itemized post card receipt, showing that the reply received by the USPTO on July 26, 2010 were the claims (as included with the instant petition) and the requisite extension of time with the appropriate fee. Should petitioner not be able to provide the above, or simply does not wish to, petitioner should notify the Office to treat the original petition

under 37 CFR 1.137(a) on its merits. Petitioner is advised that the proper petition fee for a petition under 37 CFR 1.137(a) is $270.00. Only $55.00 was received with the instant petition. Accordingly, an additional $215.00 is needed.

Petitioner is further advised that any future petition must be signed by all of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

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

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/02/12

TO SPE OF : ART UNIT: 1761 Attn: PYON HAROLD Y (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/519524 Patent No.: 7883639

CofC mailroom date: 02/25/2011

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 for
The requested corrections on the PTO/SB/44 Form

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: Ok to ender the changes

/Harold Pyon/ 1761
SPE **Art Unit**

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Alexandria, VA 22313-1450
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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,835,256 :
Issue Date: November 16, 2010 :
Application No. 11/519,527 : ON PETITION
Filed: September 12, 2006 :
Attorney Docket No. 20233 :

This is a decision on the petition filed November 24, 2010, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-1-11

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 11519579 Patent No.: 7931823

CofC mailroom date: 5-26-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Omega Lewis

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: The certificate of correction should be *entered-in-part* only. Everything requested by applicant is Ok except for the changes to claim 25 which should not be entered because applicant is expanding the scope of claim 25 by his request that the species ***4-propoxyphenol*** be added to the Markush group.

/Harold Y. Pyon/ SPE **Art Unit 1761**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : **7931823**
Ser. No. : **11/519579**
Inventor(s) : **TEFF, DANIEL J.**
Issued : **04/26/2011**
Title : **ADDITIVES TO PREVENT DEGRADATION OF CYCLIC ALKENE DERIVATIVES**
Docket No. : **23010-037001 / 328.8266US**

Re: Request for Certificate of Correction

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

In regards to the alleged error(s) in Claim 25, Column 24 Line 33 see the attached SRE Response form.

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

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

TONY ZHANG, PH.D.
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

OL

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: 0002259-US-AA(06-294-2)	
Application Number: 11/519,637	Filing Date (or 371(b) or (f) Date): September 12, 2006
Patent Number: 7,665,963	Issue Date: February 23, 2010
First Named Inventor: William Bogue et al.	
Title: Curved Variable Pitch Wedge Retention in Vane Outer Base	

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 /Barry L. Kelmachter #29999/	Date August 17, 2010
Name (Print/Typed) Barry L. Kelmachter	Registration Number 29,999

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.

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
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Alexandria, Virginia 22313-1450
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BACHMAN & LAPOINTE, P.C. (P&W)
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510-2802

Mail Date: 09/08/2010

Applicant	: William Bogue	: DECISION ON REQUEST FOR
Patent Number	: 7665963	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/519,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **67** 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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Yang et al. :
Application No. 11/519,667 :
Filed: September 12, 2006 :
Attorney Docket: 00786-00767001/MGH 2967 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2010.

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

A review of the file record indicates that Choate, Hall & Stewart LLP were revoked as power of attorney by the assignee of the patent application on July 26, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 11 2011

OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

In re Application of :
Satoshi Miyashita :
Application No. 11/519,742 : DECISION ON PETITION
Filed: September 12, 2006 :
Attorney Docket No. SONYJP 3.0-671 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed February 1, 2011, 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 (37 CFR 1.121) mailed June 14, 2010. A Notice of Abandonment was mailed on March 8, 2011.

Petitioner asserts that the Office action dated was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The showing required to establish nonreceipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

The petition fails to satisfy (1) and (2) of the above-stated requirements.

With respect to items (1) and (2) above, petitioner has not provided a statement describing the system used for recording an Office action received at the correspondence address of record nor has petitioner provided a statement that a search of the record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of June 14, 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 $1,620 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 the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SONYJP
Lerner, David, Littenberg, Krumholz & Mentlik, LLP
600 South Ave West
Westfield, NJ 07090

MAILED

JUN 29 2011

OFFICE OF PETITIONS

In re Application of :
Satoshi Miyashita :
Application No. 11/519,742 : DECISION ON PETITION
Filed: September 12, 2006 :
Attorney Docket No. SONYJP 3.0-671 :

This is a decision on the renewed petition under 37 CFR 1.181 (no fee), filed June 6, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

This application was held abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed June 14, 2010. A Notice of Abandonment was mailed on March 8, 2011.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

The petition satisfies the above-stated requirements. Accordingly, the petition is **GRANTED**. In view of the above, the holding of abandonment is withdrawn.

This application is being referred to Technology Center Art Unit 2624 for re-mailing of the Office action of June 14, 2010. The period for reply will run from the new mailing date of the Office action.

Telephone inquiries regarding 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

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.
11/519,759	09/13/2006	Katsuji Ebisu	122.1553D	7393

21171 7590 07/22/2011

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

EXAMINER	
HON, SOW FUN	
ART UNIT	PAPER NUMBER
1798	
MAIL DATE	DELIVERY MODE
07/22/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Application No.: 11519759 :
Filed: 09/13/2006 : **DECISION ON PETITION**
Patent Number: 7,923,080 :
Issue Date: 04/12/11 :
Attorney Docket No. **122.1553D** :

This is a decision on the Petition filed under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO) on July 13, 2011. Petitioner seeks relief from filing a Petition for Duplicate Letters Patent in this application due to the non-receipt of a large number of Patent Grants in the April 12, 2011 issue.

The Petition is **GRANTED**.

Petitioner submitted a statement that the Patent Grant was not received at the correspondence address of record; that a search of records did not indicate receipt; and that the docketing system is sufficiently reliable. Petitioner filed a copy of the docketing records showing receipts dates and application history as evidence.

Therefore, the Office of Data Management will provide one additional Original Letters Patent for this application.

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

/Kimberly Terrell/
Manager
Office of Data Management
Patent Publication Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Application of :
Zeev RUSSAK et al. :
Application No. 11/519,909 :
Filed: September 13, 2006 :
Attorney Docket No. 32295 :

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 22, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 23, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, Request for Continued Examination, and the $465 filing fee; (2) the petition fee of $930; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of July 22, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Joanne Hama at (571) 272-2911 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2624 for appropriate action on the concurrently filed amendment.

David Bucci
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.
11/519,910	09/13/2006	Zeev Russak	32296	6750

67801 7590 04/06/2011

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

EXAMINER	
TABATABAI, ABOLFAZL	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
04/06/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 6, 2011

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

In re Application of :
Russak, Zeev et. al : **DECISION ON PETITION**
Application No. 11/519,910 :
Filed: 09/13/2006 :
Attorney Docket No. 32296 :

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) September 13, 2006.

The petition is **DISMISSED.**

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

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

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

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

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

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

/Diane Terry/
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.
11/519,910	09/13/2006	Zeev Russak	32296	6750

7590 05/04/2011

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

EXAMINER	
TABATABAI, ABOLFAZL	
ART UNIT	**PAPER NUMBER**
2624	
MAIL DATE	**DELIVERY MODE**
05/04/2011	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

May 3, 2011

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

In re Application of	:	
Russak, Zeev, et al	:	**DECISION ON PETITION**
Application No. 11/519,910	:	
Filed: 09/13/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 32296	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) April 27, 2011.

The petition is **GRANTED**.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MASCHOFF GILMORE & ISRAELSEN
1441 W. UTE BLVD., SUITE 100
PARK CITY UT 84098-7633

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,266,387 :
Issue Date: September 4, 2007 :
Application No. 11/519,976 : DECISION ON PETITION
Filed: September 13, 2006 :
Attorney Docket No. 4284.0855-02 :

This is a decision on the petition filed May 31, 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 C. Goodwyn at (571) 272-6735.

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person at (703) 756-1555 in the Office of Data Management.

A copy of this decision is being sent to the Office of Data Management for issuance of a duplicate Letters Patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell, Randolph Square, 9th Floor, Room D33 (Fax No. (571) 270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of :
Liangde Xie et al :
Application No. 11/520,041 : DECISION ON PETITION
Filed: September 13, 2006 : UNDER 37 CFR 1.313(c)
Attorney Docket No. PJ5287 :

This is a decision on the petition under 37 CFR 1.313(c), 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 November 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 1784 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Paper No. 27

Gregory T. Lowen
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Date: July 29, 2010
Application No. 11/520,063
Filed: September 13, 2006
Subject: **Mandelic Acid Derivatives and Their Use as Thrombin Inhibitors**

ON PETITION
37 CFR 1.48

Receipt is acknowledged of the petition filed July 29, 2010 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **deletion of ANDERS JOHANSSON AND ARNE SVENSSON**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

/Joseph K. McKane/
JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-19-10

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/520149 Patent No.: 7622423

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: _____

Stan Silverman — SPE

1793 — 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.g

Date Mailed : May 3, 2011
Patent No. : 7,864,675 B2
Ser. No. :11/520158
Issued January 4, 2011
Inventor(s) : Heiko Kresse, et al.
Title : AUTOMATION DEVICE

Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

Michael M. Rickin
ABB Inc.
29801 Euclid Avenue
Wickliffe, OH 44092

MD/mt

UNITED STATES 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 12 2010

OFFICE OF PETITIONS

Mauriel Kapouytian & Treffert LLP
151 1st Avenue
#23
New York NY 10003

In re Application of	:	
TOMLIN, John A. et al.	:	
Application No. 11/520,304	:	DECISION ON PETITION
Filed: September 12, 2006	:	TO WITHDRAW
Attorney Docket No. **1260**	:	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
www.uspto.gov

BRACCO RESEARCH USA INC.
305- COLLEGE ROAD EAST
PRINCETON NJ 08540

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
John J. Niedospial, Jr., et al. :
Application No. 11/520,382 : DECISION ON PETITION
Filed: September 13, 2006 :
Attorney Docket No. RD-63E US :

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 23, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2010. Accordingly, the date of abandonment of this application is June 24, 2010. The Notice of Abandonment was mailed July 12, 2010.

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

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

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

Terri Johnson
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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED
FEB 09 2012
OFFICE OF PETITIONS

In re Application of :
Andreas Dahlquist, et al. :
Application No.: 11/520,619 : ON PETITION
Filed: September 14, 2006 :
Attorney Docket No.: 1004501-000861 :

This is a decision on the petition, filed February 8, 2012, 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 23, 2012, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2833 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110825

DATE : August 26, 2011

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7864643

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

Applicant is requesting that the foreign priority date be corrected. It was printed as Sep. 15, 2003 but should read Sep. 16, 2003. Applicant is correct that the printed date is in error and so the correction shoud be approved. -- /crl/

/JOSEPH FEILD/
Supervisory Patent Examiner.Art Unit 2627

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

DEC 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Tetsuro Mitsui, et al.	:	
Application No. 11/520,633	:	DECISION GRANTING PETITION
Filed: September 14, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q97141	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 20, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 17, 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 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,800,322 : DECISION ON REQUEST
Chuah, et al. : FOR
Issue Date: September 21, 2010 : RECONSIDERATION OF
Application No. 11/520,842 : PATENT TERM ADJUSTMENT
Filed: September 13, 2006 : and
Atty Docket No. **04-SIN-090** : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 15, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred and fifty (650) 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 sixty-one 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 six hundred and fifty (650) 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 : 7,800,322 B2

DATED : Sep. 21, 2010

INVENTOR(S) : Chuah 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 (594) days

Delete the phrase "by 594 days" and insert – by 650 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE WI 53202-4497

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
SLUKVIN et al.	:	
Application No. 11/520,871	:	DECISION DISMISSING PETITIONS
Filed: September 14, 2006	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 960296.00332	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 3, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed 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 amendment 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).

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 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 Jose' G Dees at (571) 272-1569.

David Bucci
Petitions Examiner
Office of Petitions

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411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE WI 53202-4497

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JUL 29 2011

OFFICE OF PETITIONS

In re Application of :
SLUKVIN et al. :
Application No. 11/520,871 : DECISION ON PETITIONS
Filed: September 14, 2006 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: 960296.00332 :

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 16, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications as set forth in the currently filed Application Data Sheet.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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.

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 1.78(a)(3) was unintentional, petitioner must notify the Office.

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 Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1653 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.

For David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/520,871	09/14/2006	1653	1830	960296.00332	21	5

CONFIRMATION NO. 9749

27114
QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

CORRECTED FILING RECEIPT

OC000000049007696

Date Mailed: 07/28/2011

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)

Igor I. Slukvin, Verona, WI;
Maksym A. Vodyanyk, Madison, WI;
James A. Thomson, Madison, WI;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/717,168 09/15/2005
and is a CIP of 11/443,608 05/31/2006 PAT 7,811,821
which claims benefit of 60/686,145 06/01/2005

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

If Required, Foreign Filing License Granted: 10/02/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/520,871**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTIPOTENT LYMPHOHEMATOPOIETIC PROGENITOR CELLS

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/520,872	09/13/2006	Robert Voliter	ADOBB298	9745

61222 7590 04/05/2011

VAN PELT, YI & JAMES LLP AND ADOBE SYS. INCORP.
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

EXAMINER	
GUERTIN, AARON M	
ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
04/05/2011	ELECTRONIC

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

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

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

usptocorrespondence@ip-patent.com

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VAN PELT, YI & JAMES LLP AND ADOBE SYS. INCORP.
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO CA 95014

APR 5 2011

In re Application of :
Voliter, Reobrt *et al.* :
Serial No.: 11/520,872 :
Filed: September 6, 2011 : DECISION ON PETITION
For: **SYSTEM AND METHOD FOR IMAGE FOG SCENE DETECTION** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 C.F.R. §1.84(a)(2) filed September 13, 2006, requesting acceptance of colored drawings. The petition requests that the color drawings be accepted in lieu of black and white drawings.

The petition requests that the color photographs identified in Figures 1A, 1B, 1C, and 1D and be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(b)(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**.

John Peng
Special Program Examiner
Technology Center 2600
Communications

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

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application :
Goodall, et al. :
Application No. 11/521,076 : DECISION ON APPLICATION
Filed: September 13, 2006 : FOR PATENT TERM ADJUSTMENT
Docket No. 0605-028-0011-C00001 :

This is a decision on the petition under 37 CFR 1.705(b), filed May 13, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred sixty-five (165) days to one hundred twenty-five (125) days.

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

On February 16, 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 was one hundred sixty-five (165) days.

The Office initially determined a patent term adjustment of one hundred sixty-five (165) days based on an adjustment for PTO delay of three hundred fifty-three (353) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR § 1.703(a)(1), and twenty-three (23) and twenty-two (22) days pursuant to 37 CFR § 1.703(a)(2), reduced by two (2) days of applicant delay pursuant to 37 CFR § 1.704(b) and six (6) and one hundred thirty-seven (137) and ninety-four (94) days pursuant to 37 CFR § 1.704(c)(8).

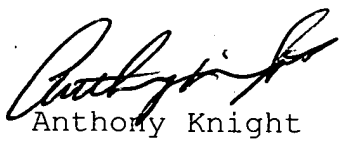
Applicants point out that additional Applicant delay should have been assessed for the filing of an IDS on February 22, 2010, after the Office mailed the Notice of Allowance on February 16, 2010. However, any request for reconsideration of the patent term adjustment for actions after the Notice of Allowance should be made pursuant to 37 CFR 1.705(d). Similarly, Applicants argue that the patent term adjustment should be reduced by an additional twenty-two (22) days pursuant to the "overlap" provision of 37 CFR 1.703(f). However, knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitle to for Office failure to issue the patent within 3 years (and to calculate overlap under 37 CFR 1.703(f)).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the February 16, 2010 Notice of Allowance is **one hundred sixty-five (165) days** (398 (353+23+22) days of PTO delay, reduced by 165 (2+137+94) days of applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

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

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



Anthony Knight
Director
Office of Petitions

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Patent No. : **8098773**
Ser. No. : **11/521167**
Inventor(s) : **PIESINGER, GREGORY H.**
Issued : **01/17/2012**
Title : **COMMUNICATION METHOD AND APPARATUS**
Docket No. : **2291-060U**

Re: Request for Certificate of Correction

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

In regards to the alleged error(s) in the Claims, Column 15 Line 51 and Column 17 Line 32 are printed in accordance with the Claims filed on 1-10-11. Also, the requested corrections aren't valid because there wouldn't be any changes made to the claims. See the attached pages.

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

MESCHKOW & GRESHAM, P.L.C.
7250 NORTH SIXTEENTH STREET, SUITE 318
PHOENIX AZ 85020-5279

OL

cess. By selecting the correct path through the decoder code tree, the additional low order constellation signals have no effect on the primary low order constellation signal. That is, the low order constellation signals appear to be pseudo-orthogonal to each other.

The preferred embodiments of the present invention have been illustrated and described in detail. However, it will be readily apparent to those skilled in the art that various modifications may be made therein without departing from the spirit of the invention.

For example, as the E_b/N_0 decreases, more and more paths are retained within decoder **72** because noise increases the correct path residuals, and thus requires a higher threshold to prevent elimination of the correct path. Adding a short parity check code is an efficient method of reducing decoder resources. That is, the inner code allows the decoder to determine which of the retained paths, based on residual value, can be possible paths. Any retained path that fails the parity check cannot be the correct path and can be eliminated.

Such a parity check code is not used for error correction per say, but rather it is used to enhance the determination of retaining the correct path. If the correct path can be retained, then the BER for the high order constellation is equal to the BER of the elementary QPSK constellation from which the high order constellation was formed. That is, cancellation removes the effects of the summed additional QPSK constellations and leaves the base QPSK constellation.

Although the preferred embodiments discussed herein are concerned with rate ½ encoding, where two bits of codeword are generated for each bit of data message, this is not a requirement. Nothing requires that every pseudo-orthogonal signal receive FEC encoding. Thus, for example a rate ¾ version of a 16-QAM embodiment could be provided by omitting one of encoders **48** altogether and passing an additional bit of message data onto codeword **50** per unit interval **42**.

Although the preferred embodiment favors combining QPSK signals into QAM constellations and using convolutional coding, this method is not limited to either. Other constellations and types of coding can be devised. Also, it is well known that convolutional codes, such as taught herein, can be punctured to increase the code rate, and inner block codes can be concatenated with a convolutional outer code to increase coding performance. These and other modifications known to those skilled in the art are to be included within the scope of the present invention.

What is claimed is:

1. A method for communicating an n-bit codeword in a unit interval, where n=y+z and where n, y, and z are positive integers, said method comprising:

transmitting a transmit phase point selected from a constellation of phase points;

generating a receive phase point responsive to said transmit phase point and to noise;

forming 2^z alternate hypotheses about potential combinations of said z bits of said n-bit codeword, wherein one of said 2^z hypotheses is correct and 2^z-1 of said 2^z hypotheses are incorrect; and

applying a forward error correction (FEC) decoding process to said 2^z alternate hypotheses to accept and reject said hypotheses in addition to counteracting said noise; and

wherein a first phase-space vector is selected from a set of 2^y different phase-space vectors by said v bits of said n-bit codeword;

a second phase-space vector is selected from a set of 2^z different phase-space vectors by said z bits of said n-bit codeword; and

said transmit phase point is responsive to a vector sum of said first and second phase-space vectors.

2. A method as claimed in claim **1** wherein said first phase-space vector exhibits substantially the same magnitude as said second phase-space vector.

3. A method as claimed in claim **1** wherein:

said positive integer y equals two; and

each of said 2^y different phase-space vectors exhibits substantially equal magnitude to all of the others of said 2^y different phase-space vectors and is rotated 90° from two of the others of said 2^y different phase-space vectors.

4. A method as claimed in claim **1** wherein:

said positive integer z equals two; and each of said 2^z different phase-space vectors exhibits substantially equal magnitude to all of the others of said 2^z different phase-space vectors and is rotated 90° from two of the others of said 2^z different phase-space vectors.

5. A method as claimed in claim **4** wherein said 2^y different phase-space vectors are rotated with respect to said 2^z different phase-space vectors.

6. A method as claimed in claim **1** wherein: said integer z equals z1+z2, where z1 and z2 are positive integers;

said second phase-space vector is responsive to a vector sum of a third phase-space vector and a fourth phase-space vector;

said third phase-space vector is selected from a set of 2^{z1} different phase-space vectors by z1 bits from said n-bit codeword; and

said fourth phase-space vector is selected from a set of 2^{z2} different phase-space vectors by z2 bits from said n-bit codeword.

7. A method as claimed in claim **1** additionally comprising:

parsing a k-bit message into a k1-bit message and a k2-bit message, where k, k1, and k2 are positive integers;

converting said k1-bit message into a y-bit codeword by a first forward-error-correction (FEC) encoding process, where y is a positive integer greater than k1 and less than n;

converting said k2-bit message into an z-bit codeword by a second FEC encoding process, where z is a positive integer greater than k2 and less than n; and

combining said y-bit codeword with said z-bit codeword to form said n-bit codeword.

8. A method as claimed in claim **1** additionally comprising for each of said 2^z alternate hypotheses, offsetting said receive phase point by a vector responsive to said hypothesis to define an offset phase point.

9. A method as claimed in claim **1** wherein:

2^z offset phase points are defined for said receive phase point;

each of said 2^z offset phase points is offset from said receive phase point by a vector responsive to one of said 2^z alternate hypotheses; and

said method additionally comprises the activity of generating branch metrics in response to offset phase points.

10. A method as claimed in claim **9** wherein:

said receive phase point equals the vector sum of a first signal which is responsive to y bits of said n-bit codeword, a second signal which is responsive to z bits of said n-bit code word, and noise; and

said branch-metrics-generating activity generates said branch metrics in response to Euclidean distances between 2^y potential values of said first signal and said 2^z offset phase points.

11. A method as claimed in claim **1** wherein:

said method additionally comprises generating 2^{y+z} branch metrics in response to said receive phase point;

2^z offset phase points are defined for said receive phase point;

2^y of said branch metrics are generated for each of said 2^z offset phase points; and

said 2^z offset phase points are offset from said receive phase point by vectors that are responsive to said 2^z alternate hypotheses.

12. A method as claimed in claim **11** wherein:

said receive phase point equals the sum of a first signal which is responsive to y bits of said n-bit codeword, a second signal which is responsive to z bits of said n-bit code word, and noise; and

said branch-metrics-generating activity generates said branch metrics in response to Euclidean distances between 2^y potential values of said first signal and said 2^z offset phase points.

13. A method as claimed in claim **1** additionally comprising performing a forward error correction (FEC) encoding process to convert a k-bit message, where k is a positive integer less than n−1, into said n-bit codeword.

14. A method as claimed in claim **13** wherein said constellation of phase points includes fewer than 2^n phase points.

15. A method for communicating an n-bit codeword in a unit interval, where n=y+z and where n, y, and z are positive integers, said method comprising:

transmitting a transmit phase point selected from a constellation of phase points, wherein: a first phase-space vector is selected from a set of 2^y different phase-space vectors by said y bits of said n-bit codeword;

a second phase-space vector is selected from a set of 2^z different phase-space vectors by said z bits of said n-bit codeword; and

said transmit phase point is responsive to a vector sum of said first and second phase-space vectors;

generating a receive phase point responsive to said transmit phase point and to noise;

defining a plurality of offset phase points each of which is responsive to said receive phase point; and

decoding said offset phase points; and

wherein said defining activity comprises forming 2^z alternate hypotheses about potential combinations of said z bits of said n-bit codeword, wherein one of said 2^z hypotheses is correct and 2^z-1 of said 2^z hypotheses are incorrect; and

said decoding activity applies a forward error correction (FEC) decoding process to said 2^z alternate hypotheses to accept and reject said hypotheses in addition to counteracting said noise.

16. A method as claimed in claim **15** additionally comprising generating branch metrics responsive to said offset phase points so that said decoding activity is responsive to said branch metrics.

17. A receiver for use in a communication system in which a codeword transformed into a transmit phase point is transmitted during a unit interval, said receiver comprising:

a receive phase point generator configured to generate a receive phase point responsive to said transmit phase point and to noise;

a branch metrics generator configured to define a plurality of offset phase points wherein each of said offset phase points is responsive to said receive phase point, and to generate branch metrics which are responsive to said offset phase points; and

a decoder coupled to said branch metrics generator; and

wherein said codeword is conveyed by n bits, where n bits=y bits+z bits and n, y, and z are positive integers;

said branch metrics generator is configured so that said offset phase points represent 2^z alternate hypotheses about potential combinations of said z bits of said n-bit codeword, wherein one of said 2^z hypotheses is correct and 2^z-1 of said 2^z hypotheses are incorrect; and

said decoder is configured to apply a forward error correction (FEC) decoding process to said 2^z alternate hypotheses to accept and reject said hypotheses in addition to counteracting said noise.

18. A receiver as claimed in claim **17** wherein:

each of said plurality of offset phase points is offset from said receive phase point by a vector responsive to one of said 2^z alternate hypotheses;

said receive phase point equals the vector sum of a first signal which is responsive to said y bits of said n-bit codeword, a second signal which is responsive to said z bits of said n-bit code word, and noise; and

said branch metrics generator generates said branch metrics in response to Euclidean distances between 2^y potential values of said first signal and said 2^z offset phase points.

19. A receiver as claimed in claim **17** wherein said decoder is a sequential decoder.

* * * * *

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/521,192	09/14/2006	John Michael Sabol	GEMS8081.472	1707

27061 7590 03/30/2011

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)
136 S WISCONSIN ST
PORT WASHINGTON, WI 53074

EXAMINER	
HOFFA, ANGELA MARIE	

ART UNIT	PAPER NUMBER
3768	

NOTIFICATION DATE	DELIVERY MODE
03/30/2011	ELECTRONIC

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

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136 S WISCONSIN ST
PORT WASHINGTON WI 53074

In re Application of:
SABOL, JOHN MICHAEL et al
Serial No.: 11/521,192
Filed: Sep. 14, 2006
Docket: GEMS8081.472
Title: METHODS AND APPARATUS FOR GATED ACQUISITIONS IN DIGITAL RADIOGRAPHY

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT AND REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed January 17, 2011 to withdraw holding of abandonment and review the restriction requirement promulgated on March 29, 2010 based on the constructive election. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition to withdraw the holding of abandonment is granted.
The petition to withdraw the restriction requirement is granted.

In his January 17, 2011 petition, petitioner requests the examiner to withdraw the holding of abandonment due to improper restriction requirement issued on December 10, 2009 and repeated on March 29, 2010 regarding cancelled elected claims 1-7 and 19-26 and the newly added claims 27-52. Petitioner believes that the restriction between the original examined, now cancelled claims 1-7 and 19-26 and the newly added clams 27-52 was in error. In particular, petitioner argues that the examiner failed to show the newly added claims 27-52 are independent or distinct from the original, now cancelled claims 1-7 and 19-26 in accordance with applicable provisions in chapter 800 of the MPEP. Therefore, the request of withdrawal of the restriction requirement in the application should be granted. Thus, the holding of abandonment should be withdrawn.

A review of the restriction requirement based on the constructive election mailed on December 10, 2009 and repeated on March 29, 2010 under MPEP 821.03 shows no explanation why the original examined claims 1-7 and 19-26 are independent or distinct from the newly added claims 27-52. Since the restriction requirement was unclear in this regard, the holding of abandonment is now withdrawn. In order to clarify the status of the restriction requirement in view of the Rule 111 amendment filed on April 29, 2010, the examiner is directed to issue a complete restriction requirement in accordance with the Chapter 800 of MPEP procedure or totally withdraw the restriction requirement of March 29, 2010 and examine the newly added claims 27-52.

After consulting with the examiner, it was agreed that the restriction requirement of March 29, 2010 should be withdrawn at this time. An Office action consistent with this decision will follow in due course.

In response to the applicant's Rule 111amendment of April 29, 2010, the application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3768 for preparation of an Office action consistent with this decision. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

for

Angela D. Sykes, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/521,192	09/14/2006	John Michael Sabol	214792-1 (8081.472)	1707

27061 7590 11/21/2011

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EXAMINER	
HOFFA, ANGELA MARIE	
ART UNIT	PAPER NUMBER
3768	

NOTIFICATION DATE	DELIVERY MODE
11/21/2011	ELECTRONIC

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136 S WISCONSIN ST
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In re Application of:
SABOL, JOHN MICHAEL et al
Serial No.: 11/521,192
Filed: Sep. 14, 2006
Docket: 214792-1 (8081.472)
Title: METHODS AND APPARATUS FOR GATED ACQUISITIONS IN DIGITAL RADIOGRAPHY

DECISION ON PETITION FOR REVIEW OF ELECTION OF SPECIES REQUIREMENT

This is a decision on the petition filed on June 6, 2011 by which petitioner requests withdrawal of restriction requirement and examination of all pending claims. This petition is considered as if pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **DISMISSED AS PREMATURE**.

The record shows that:

1) On May 5, 2011, the examiner issued a restriction requirement. In the requirement, the examiner identified three Groups of patentable distinct or independent inventions.
2) In response to the restriction requirement, on June 6, 2011, the applicant filed a Rule 111 amendment and an election of Group I invention with traverse.
3) Concurrently filing with the election, on June 6, 2011, the present petition to review the restriction requirement of May 5, 2011.
4) On August 18, 2011, the examiner issued a final Office Action on the merits for the constructively elected claim 53. The non-elected claims 27-52 were withdrawn from consideration.
5) October 19, 2011, the applicant filed a Rule 116 amendment. The examiner has entered the Rule 116 Amendment for appeal purpose as indicated in the Advisory Action of November 2, 2011.

Discussion and Analysis

A review of the record reveals that on May 5, 2011, the examiner issued a restriction requirement. The examiner identified two Groups of patentable and distinct or independent

inventions. However, the current petition was filed concurrently with the election prior to the examiner's rebuttal of the applicant traversal. The current petition includes no rebuttal arguments to the examiner's reasons on maintaining of the restriction as set forth in the final rejection of August 18, 2011. It is noted that prior to August 19, 2011, the examiner did not repeat the restriction requirement of May 5, 2011. Therefore, the petition is hereby dismissed as premature in accordance with 37 CFR 1.181(c)[1] and 37 CFR 1.144.

Conclusion

For the reasons outlined above, petitioner's request to withdraw the restriction requirement of May 5, 2011 is dismissed as premature.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3768 awaiting for a response to the Advisory Action mailed November 2, 2011. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is DISMISSED AS PREMATURE.

Angela D. Sykes, Director
Technology Center 3700

[1] 37 CFR 1.181(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/521,192	09/14/2006	John Michael Sabol	214792-1 (8081.472)	1707

27061 7590 12/21/2011

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EXAMINER
HOFFA, ANGELA MARIE

ART UNIT	PAPER NUMBER
3768	

NOTIFICATION DATE	DELIVERY MODE
12/21/2011	ELECTRONIC

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In re Application of:
SABOL, JOHN MICHAEL et al
Serial No.: 11/521,192
Filed: Sep. 14, 2006
Docket: 214792-1 (8081.472)
Title: METHODS AND APPARATUS FOR GATED ACQUISITIONS IN DIGITAL RADIOGRAPHY

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed November 30, 2011 to withdraw the restriction requirement imposed in the Office action issued on May 5, 2011. In particular, a review of the Office action promulgated on August 19, 2011 regarding withdrawal from consideration of newly added claims 27-52 due to constructive election is requested. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **DISMISSED as moot**.

In view of the telephone interview on December 13, 2011 between the applicant's attorney, Mr. Rosin and the examiner in charge and the subsequent filing of RCE of December 19, 2011, in the Remarks of the RCE, the applicant withdrew the pending petition of November 30, 2011. Therefor, the petition is now moot and subject to dismissal.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3768 for further examination of all pending claims on the merits. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Robin O. Evans

Robin Evans, Acting Director
Technology Center 3700

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LLP
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WASHINGTON DC 20001-4413

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In re Application of
Vernon P. JOYNT
Application No. 11/521,307
Filed: September 15, 2006
Attorney Docket No. 10036.0010-00000

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.183, filed June 14, 2011 and supplemented on July 1, 2011, requesting waiver of 37 CFR 1.59(a) and expungement of information from the above identified application.

The petition is granted.

Petitioner requests that paragraph [0081] of the instant specification, forming part of the instant application, as originally filed, be expunged from the record. Petitioner states that (A) assistance has been obtained by the sponsoring agency, the Department of the Army, and that the sensitive material has been identified; (B) that the Department of the Army has agreed to rescind the secrecy order in the instant application upon expungement of the sensitive material; and (C) that the sensitive material is not enabling for the disclosure of any of the allowed claims in the instant application. The petition fee set forth in 37 CFR 1.17(f) has been paid.

MPEP §120 states, in pertinent part:

> Rescission of a Secrecy Order may also be effected in some circumstances by expunging the sensitive subject matter from the disclosure, provided the sensitive subject matter is not necessary for an enabling disclosure under 35 U.S.C. 112, first paragraph. See MPEP § 724.05. The defense agency identified with the Secrecy Order as sponsoring the Order should be contacted directly for assistance in determining what subject matter in the application is sensitive, and whether the agency would agree to rescind the Order upon expunging this subject matter.

The information in question has been determined by the examiner to not be material to the examination of the instant application. Moreover, the examiner has confirmed that the substitute sheets provided with the supplement to the instant petition do not contain new matter and may be entered.

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

The $400 fee required for consideration of the instant petition has been charged to deposit account no. 06-0916, as authorized by petitioner.

A copy of this decision is being provided to the Department of the Army in order to expedite the process of rescinding the secrecy order. The instant application is being returned to Examining Group 3640 to await the forthcoming rescission.

Telephone inquiries concerning this communication should be directed to BethAnne Dayoan at (571) 272-3209.

Anthony Knight
Director
Office of Petitions

Enclosure: (C) Specification, pp. 27-28 (originally filed)

cc: Chet Jordan
Department of the Army
U.S. Army Patent, Copyrights & Trademark Division
Office of the Judge Advocate General
901 North Stuart St.
Arlington, VA 22203-1837

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LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614

In re Patent No. 7,426,407 :
Issue Date: September 16, 2008 :
Application No. 11/521,323 : DECISION ON PETITION
Filed: September 13, 2006 :
Attorney Docket No. ECC-5798A :

This is a decision on the Request To Correct Assignee Under 37 CFR 3.81(b), filed March 23, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of assignee's name and residence. A completed Certificate of Correction Form (PTO/SB/44) was previously submitted.

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

Petitioner requests that the present Petition was submitted to add the omission of assignee's name and residence on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted assignee's name and residence to the Title Page of the Letters Patent.

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

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

The requisite $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), have been submitted. However, the additional $130.00 processing fee submitted was not necessary and will be refunded to petitioner's deposit account. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) that was previously submitted.

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. 7,426,407.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application:	:	
Tajima et al.	:	
Application No. 11/521,339	:	ON PETITION
Filed: September 14, 2006	:	
Attorney Docket No. 10287-80	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Yi-Le YANG et al. : ON PETITION
Application No. 11/521,367 :
Filed: September 15, 2006 :
Atty. Docket No.: 251812-3190

This is a decision on the petition under 37 CFR 1.137(b), filed November 11, 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 27, 2010 (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 28, 2011. A Notice of Abandonment was mailed October 4, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Office action mailed December 27, 2010, (2) a petition fee of $1860, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

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

The application file will be referred to Technology Center Art Unit 2422 for consideration of the filed Response.

Robert DeWitty
Petitions Attorney
Office of Petitions

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CLARK & BRODY
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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7,708,902 :
Issue Date: May 4, 2010 :
Application No. 11/521,395 : ON PETITION
Filed: September 15, 2006 :
Attorney Docket No. 12065-0053 :

This is a decision on the petition filed July 13, 2011, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/521,416	09/15/2006	Alfred G. Rockefeller		9946

7590 08/04/2010

Alfred G. Rockefeller
30 Cobblestone Lane
Ramsey, NJ 07446-2457

EXAMINER	
MIZRAHI, DIANE D	
ART UNIT	**PAPER NUMBER**
2617	
MAIL DATE	**DELIVERY MODE**
08/04/2010	PAPER

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Alfred G. Rockefeller
30 Cobblestone Lane
Ramsey NJ 07446-2457

In re Application of:	:	DECISION ON PETITION TO
ROCKEFELLER, ALFRED G., et al.	:	REMOVE EXAMINER
Application Serial No.: 11/521,416	:	
Filed: September 15, 2006	:	DECISION *Sua Sponte*
For: **EXCHANGE OF VOICE AND VIDEO BETWEEN TWO CELLULAR OR WIRELESS TELEPHONES**	:	VACATING FINAL OFFICE ACTION

This is a decision on the petition to remove examiner filed April 27, 2010 and decision *sua sponte* vacating final Office action.

The Petition is **DISMISSED AS MOOT**. The final Office action mailed June 25, 2010 is **VACATED**.

Petitioner requests that the examiner of record be replaced.

In support of the petition, petitioner raises several points of contention. The first five points serve as background to this decision as they are drawn to concerns by applicant in a related Patent Cooperation Treaty (PCT) Application and are set forth in the instant petition.

First, petitioner contends that an improper search report was completed in a the related PCT application, in that the Supervisor was listed as the Authorized Officer as opposed to the examiner. Petitioner states that he considered this "incorrect attribution fraudulent".

It is proper for the supervisor to sign a search report or other documentation in a PCT application, see MPEP § 1844.01 (VIII) which states in part:

> "...Pursuant to PCT Rule 43.8, the international search report must indicate the name of the officer of the International Searching Authority responsible for the report, i.e., the "authorized officer." An "authorized officer" is the person who actually performed the search work and prepared the search report, or another person who was responsible for supervising the search. See Administrative Instructions Section 514. ..." (Emphasis added).

The same requirements apply to the Authorized Officer of the Written Opinion, see MPEP 1845.01(X). Therefor, it is proper for the Examiner or the Examiner's Supervisor to sign as the Authorized Officer as deemed appropriate by the Supervisor. The Applicant does not make the determination of the Authorized Officer.

Second, petitioner apparently contacted the supervisor to report the "incorrect attribution". Furthermore, the examiner then contacted petitioner and petitioner indicated that the examiner could do nothing. See Petition, page one, fourth paragraph. It is not understood how petitioner contends that the Supervisor being the authorized officer is "fraudulent" and then, contends that the examiner "could do nothing". This contention appears inconsistent. As stated above, the Authorized Officer can either be the Examiner or the Examiner's Supervisor.

Apparently, a "corrected" chapter I report was subsequently mailed. See Petition, page two, first paragraph.

Third, petitioner contends that the Supervisor indicated that the Examiner failed to turn in satisfactory work. A review of the record of the PCT application shows that the work performed is acceptable.

Fourth, petitioner indicates the PCT Legal department was contacted, in that apparently the first chapter I report was missing from the record. According to petitioner, the first report was retrieved by the PCT legal department and entered into the record. A review of the PCT application file shows that the first Chapter I Report and Opinion, as well as the second are of record. Petitioner contends that there is a "perpetrator" and that the Federal Bureau of Investigation has been given a report. This contention is noted. The alleged misplacement of the first Chapter I report and opinion is regretted. However, a thorough review of the record and related events contributing to the record indicates no impropriety on the part of PTO staff *vis-a-vis* the instant application or the related PCT application.

Fifth, the Petitioner urges that the Examiner should not have issued an International Preliminary Examination Report (409) in the PCT Chapter II without first issuing a Written Opinion (408). The Written Opinion was completed during Chapter I prosecution as an attachment to the Search Report as is required in PCT applications having an international filing date of January 1, 2004 or later. See MPEP 1878, which states in part:

> "In applications having an international filing date on or after January 1, 2004, a written opinion must be prepared by the International Searching Authority at the same time the international search report is prepared. The United States International Preliminary Examining Authority (IPEA) will consider the written opinion of the International Searching Authority to be the first written opinion of the IPEA and as such in most instances no further written opinion need be issued by the U.S. examiner handling the international preliminary examination before establishment of the international preliminary examination report, even if there are objections outstanding. ..." (Emphasis added.)

Applicant had the opportunity to amend the PCT application in accordance with PCT Articles 19 and/or 34 but chose not to do so.

Sixth, Petitioner states that the examiner "...told me and my partner...that he will never approve our application..." Although it is true that the record indicates that the claims are under final rejection, nowhere on the record is it stated that the examiner will never approve the application. Applicant does have the right of appeal in appropriate circumstances, see MPEP 1200.

Seventh, on page two of the petition, petitioner refers to two interviews held June 22, 2009 and January 26, 2010 respectively. A review of the two Interview Summary Records of the interviews show that although the record was not specific as to what was particularly was discussed, there is no impropriety shown in these records.

Finally, petitioner contends that the examiner refused to assist in drafting a claim or claims per MPEP 707.07(j). Sub-section I states in part:

> "When, during the examination of a pro se application it becomes apparent to the examiner that there is patentable subject matter disclosed in the application, the examiner should draft one or more claims for the applicant and indicate in his or her action that such claims would be allowed if incorporated in the application by amendment. ..."

Only if the examiner determines that there is patentable subject matter disclosed, should he or she draft claim(s) for the inventor. In the instant case, apparently the examiner has determined in his opinion that there is no apparent patentable subject matter. This opinion (currently set forth in the final rejection) is however, subject to appeal if applicant so desires.

DISCUSSION ON REMOVAL OF EXAMINER

Petitioner requests that the Examiner assigned to the instant application be replaced. Upon filing, an application is assigned to an examiner based upon technology and expertise in a particular art area depending on factors such as workload and resources available to handle such workload. The commissioner (Director) has the authority to cause an examination of the application. 35 USC § 103. The Director delegates this authority to a Primary Examiner to act on behalf of the Director in all "normal" aspects of the examination processes. Applicant has no right to pick and choose the examiner assigned to a particular application as this would cause undue burden upon the agency. Applicant has two avenues of relief when disagreeing with the examiner. 1.) The remedy for improper rejection is appeal to the BPAI (37 CFR 1.191(a)) and 2.) The remedy for other improper examiner actions is petition (37 CFR 1.181(a)). These are adequate remedies to address petitioner's concerns related to examination.

Notwithstanding the above discussion, it is noted that the previous examiner of record is no longer assigned to the instant application. The application has been assigned to a new examiner.

Consequently, the request that the examiner be removed is **DISMISSED AS MOOT**.

FINAL ACTION MAILED JUNE 25, 2010.

In reviewing the record, it is determined that the final Office action mailed June 25, 2010 is defective.

In the amendment received June 7, 2010, previously presented claims 1-11 were cancelled and new claims 12-14 added. In the final Office action of June 25, 2010, the Examiner held that newly added claims 12-14 are restrictable from the previously examined claims as drawn to a patentably distinct invention. The Examiner withdrew these claims as non-elected based upon prior examination of claims 1-11. In the same action, the Examiner rejected these non-elected claims. Non-elected claims cannot be rejected unless they have been rejoined. There is no indication that claims 12-14 have been rejoined. There is also no explanation as to why the claims are rejected.

Accordingly, the final Office action mailed June 25, 2010 is **VACATED**.

If petitioner desires reconsideration of this decision, such request must be filed within **TWO MONTHS** from the mailing date. Extension of time under 37 CFR 1.136(a) is not permitted.

The response to the requirement for ratification of correspondence was received June 14, 2010 and is acceptable. Please note that all future correspondence form applicant in this application must be signed by all inventors unless a registered attorney/agent is appointed.

The application file is being returned to the current examiner of record for appropriate action in due course.

Wanda L Walker

Wanda Walker, Director
Technology Center 2600
Communications

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Paper No.

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

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APR 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Ishii et al.	:	DECISION ON APPLICATION
Application No. 11/521,511	:	FOR
Filed: September 15, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 125367	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed March 11, 2011. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred thirty-four (134) days to three hundred forty-three (343) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **three hundred forty-three (343)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 24, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 134 days. On March 11, 2011, applicant timely submitted the instant application for patent term adjustment[1]. Applicant disputes the reduction of 209 days associated with the filing of a response to the "Notice to File Missing Parts of Nonprovisional Application" mailed September 28, 2006. Applicant contends that no reduction pursuant to 37 CFR 1.704(b) is warranted as their response was filed on

[1] PALM records indicate that the Issue Payment has not been filed. The issue fee is due April 25, 2011.

November 28, 2006 (not July 25, 2007), which was within 3 months of the mailing of the Notice.

Applicant states that this patent is not subject to a terminal disclaimer.

Applicant's arguments have been considered and found persuasive. A review of the record reveals that a complete and proper response was filed on November 28, 2006. Thus, there was no applicant delay. The reduction of 209 days has been removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 343 days.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Wednesday

PALM INTRANET

Date: 3/30/2011
Time: 15:00:54

PTA Calculations for Application: 11/521511			
Application Filing Date:	09/15/2006	PTO Delay (PTO):	363
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	229
Post-Issue Petitions:	0	Total PTA (days):	343
PTO Delay Adjustment:	209		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
93	03/30/2011	ADJUSTMENT OF PTA CALCULATION BY PTO	209		
88	01/24/2011	MAIL NOTICE OF ALLOWANCE			
87	12/21/2010	ISSUE REVISION COMPLETED			
86	12/21/2010	DOCUMENT VERIFICATION			
85	12/21/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
84	12/20/2010	ALLOWABILITY NOTICE			
81	11/29/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	11/29/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	11/29/2010	REQUEST FOR CONTINUED EXAMINATION (RCE)			
78	12/04/2010	DISPOSAL FOR A RCE / CPA / R129			
77	11/29/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	11/29/2010	WORKFLOW - REQUEST FOR RCE - BEGIN			
75	10/26/2010	FINISHED INITIAL DATA CAPTURE			
74	09/07/2010	EXPORT TO INITIAL DATA CAPTURE			
73	09/08/2010	ELECTRONIC REVIEW			
72	09/07/2010	EMAIL NOTIFICATION			
71	09/07/2010	MAIL NOTICE OF ALLOWANCE			62
70	09/01/2010	ISSUE REVISION COMPLETED			
69	09/01/2010	DOCUMENT VERIFICATION			
68	09/01/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	08/30/2010	ALLOWABILITY NOTICE			
		REQUEST FOR PRE-APPEAL CONFERENCE FILED			

63	08/13/2010				
62	08/13/2010	NOTICE OF APPEAL FILED			
61	05/14/2010	ELECTRONIC REVIEW			
60	05/14/2010	EMAIL NOTIFICATION			
59	05/14/2010	MAIL FINAL REJECTION (PTOL - 326)			
58	05/10/2010	FINAL REJECTION			
57	03/02/2010	DATE FORWARDED TO EXAMINER			
56	01/25/2010	RESPONSE AFTER NON-FINAL ACTION			
55	02/22/2010	EMAIL NOTIFICATION			
54	02/22/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
53	01/19/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
52	10/28/2009	MAIL NON-FINAL REJECTION			
51	10/26/2009	NON-FINAL REJECTION			
50	09/22/2009	DATE FORWARDED TO EXAMINER			
49	09/15/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	09/22/2009	DATE FORWARDED TO EXAMINER			
47	09/15/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	09/22/2009	DISPOSAL FOR A RCE / CPA / R129			
45	09/15/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	09/01/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
43	08/28/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	06/15/2009	MAIL FINAL REJECTION (PTOL - 326)			
41	06/12/2009	FINAL REJECTION			
40	04/17/2009	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
39	04/17/2009	DATE FORWARDED TO EXAMINER			
38	03/04/2009	RESPONSE AFTER NON-FINAL ACTION		20	28
37	03/04/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	08/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	08/07/2007	REFERENCE CAPTURE ON IDS			
34	08/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	07/25/2007	REFERENCE CAPTURE ON IDS			

32	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	11/28/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
30	02/03/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
29	01/29/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
28	11/12/2008	MAIL NON-FINAL REJECTION	363		.5
27	11/10/2008	NON-FINAL REJECTION			
26	08/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	08/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	07/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	10/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
17	09/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
16	09/11/2008	PG-PUB ISSUE NOTIFICATION			
15	06/12/2008	APPLICATION DISPATCHED FROM OIPE			
14	06/04/2008	SENT TO CLASSIFICATION CONTRACTOR			
13	06/04/2008	FILING RECEIPT - UPDATED			
12	06/04/2008	APPLICATION IS NOW COMPLETE			
11	07/25/2007	ADDITIONAL APPLICATION FILING FEES		209	2
10	07/25/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	07/25/2007	TRANSLATION OF CLAIMS INTO ENGLISH			
8	07/25/2007	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	07/25/2007	TRANSLATION OF SPECIFICATION INTO ENGLISH			
6	08/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	08/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	07/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
3	12/31/2006	CLEARED BY OIPE CSR			
2	09/28/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

1	09/15/2006	INITIAL EXAM TEAM NN			
.5	09/15/2006	FILING DATE			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JOHN RYZNIC
FLORIDA TURBINE TECHNOLOGIES, INC.
1701 MILITARY TRAIL, SUITE 110
JUPITER FL 33458-7887

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NOV 15 2010

OFFICE OF PETITIONS

In re Application of :
Liang :
Application No.11/521,745 : DECISION ON PETITION
Filed: September 15, 2006 :
Attorney Docket No. FTT-265R :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before July 20, 2009, as required by the Notice of Allowability, mailed April 20, 2009. Accordingly, the date of abandonment of this application is July 21, 2009. A Notice of Abandonment was mailed August 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings, (2) the petition fee of 810.00; and (3) a proper statement of unintentional delay.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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SP-TI-3-1
CORNING NY 14831

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SEP 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Bruce G. Aitken, et al.	:	
Application No. 11/521,888	:	DECISION DISMISSING PETITION
Filed: September 15, 2006	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. SP03-049C	:	

This is a decision on the petition under 37 CFR 1.313(a), filed September 13, 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 June 16, 2011, with the issue fee being due on or before September 16, 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.

Inquiries concerning this decision may be directed to Terri Johnson at (571) 272-2991.

The matter is being referred to Technology Center AU 2889 for appropriate processing of the RCE filed September 13, 2011, and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Miyuki Nishimura et al.
Application No. 11/522,043
Filed: September 15, 2006
Attorney Docket No. 25360-0002002 / OP1413-US/DIV

: 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 May 5, 2010. Applicants acknowledge that at the time of the mailing of the Notice of Allowance, the patent term adjustment will remain zero (0) days but request reconsideration of the PTA calculation to adjust Applicant Delay from 113 days to 133 days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

On February 19, 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 0 days. The instant application for patent term adjustment was timely filed[1]. The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days but that the applicant delay is one hundred thirty eight **(138)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

Applicants direct the office to the mailing of the NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES mailed October 11, 2006 and the response filed February 5, 2007. Applicant argues that "No Applicant Delay was accorded for this reply; however, in good faith and candor, Applicants respectfully submit that the late response should have been accorded a total Applicant Delay of 25 days for delay from January 12, 2007 (the day after the date that is three months after the date on which the Notice to File Missing Parts was mailed), to February 5, 2007. See 37 C.F.R. § 1.704(b)."

---

[1] PALM records indicate that the Issue Fee was also received on May 5, 2010.

A review of the record reveals that the initial determination of patent term adjustment of 0 days while correct, the Applicant Delay as determined by the Office is incorrect.

Pursuant to 37 CFR 1.704(b), a period of reduction of 25 days should have been entered. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, a NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES was mailed October 11, 2006 and a reply, was not received in the Office until February 5, 2007. Pursuant to § 1.704(b), the patent term adjustment should have been reduced by an additional 25 days for applicant delay from January 11, 2007 to February 5, 2007, the date of filing of the reply to the Notice.

Additionally, Applicants dispute the reduction of 5 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on June 10, 2009 after the filing of a response to a non-final Office Action on June 5, 2009.

A review of the record reveals that on June 5, 2009 applicants filed a response to the non-final Office action mailed February 10, 2009 with a one month extension of time. Then on June 10, 2009, applicants filed the Information Disclosure Statement (IDS). Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution. The record does not support a conclusion that the IDS was expressly requested by the examiner. Accordingly, filing of the IDS may be considered a failure to engage and a proper basis for reduction.

Applicant argues however, that the IDS filed June 10, 2009 "was in compliance with 37 C.F.R. 1.704(d) as it was accompanied by a statement that each item of information was first cited in a communication from a foreign patent office in a counterpart application, was compliant with 37 C.F.R. §§ 1.97and 1.98, and was filed within 30 days of receipt of the communication", and "should not have been considered a supplemental filing under 37 C.F.R. § 1.704(c)(8)."

Applicant's argument with respect to the Information Disclosure Statement has been considered, but not found persuasive. The IDS filed June 10, 2009 was filed under circumstances that constitute a failure to engage within the meaning of 37 CFR 1.704(c)(8). Entry of the period of reduction of 5 days is warranted.

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;
>
> However, 37 CFR 1.704(d) provides that:
>
> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In this instance, the record supports a conclusion that the IDS was received June 10, 2009 however, the IDS did not include a proper §1.704(d) statement. The statement purported to be in compliance with 37 CFR 1.704(d) does not track the required language of 1.704(d). The required statement states, in pertinent part, that:

> Each item of information cited in the Information Disclosure Statement (IDS) filed concurrently with this statement was first cited in a communication from a foreign patent office in a counterpart application. The communication was not received by any individual designated in § 1.56(c) more than thirty (30) days prior to the filing of the IDS. Accordingly, no reduction in patent term adjustment is warranted by the filing of the IDS filed concurrently with this statement.

Applicants are reminded that § 1.704(d) was revised, effective May 24, 2004. This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004. Moreover, the statement among other things must state that the IDS was first cited in "any" communication, not a communication. As the statement was not proper, entry of the reduction of 5 days was warranted and will not be removed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 0 days and the Applicant Delay will be adjusted from 133 days to 138 days.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Day :
Monday
Date:
9/27/2010
Time:
17:11:37

PALM INTRANET

PTA Calculations for Application: 11/522043			
Application Filing Date:	09/15/2006	PTO Delay (PTO):	113
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	113
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-25		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
129	09/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
115	02/19/2010	MAIL NOTICE OF ALLOWANCE			
114	02/13/2010	ISSUE REVISION COMPLETED			
113	02/13/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
112	02/13/2010	DOCUMENT VERIFICATION			
111	02/13/2010	EXAMINER'S AMENDMENT COMMUNICATION			
110	02/09/2010	NOTICE OF ALLOWABILITY			
109	02/09/2010	EMAIL NOTIFICATION			
106	02/09/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

103	02/02/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
102	11/10/2009	ELECTRONIC REVIEW			
101	11/10/2009	EMAIL NOTIFICATION			
100	11/10/2009	MAIL FINAL REJECTION (PTOL - 326)	36		93
99	11/05/2009	FINAL REJECTION			
98	06/10/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	06/10/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
94	08/29/2009	DATE FORWARDED TO EXAMINER			
93	06/05/2009	RESPONSE AFTER NON-FINAL ACTION		26	83
92	06/05/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
91	07/06/2009	MAIL-PETITION DECISION - DISMISSED			
90	07/06/2009	PETITION DECISION - DISMISSED			
89	06/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		5	93
88	06/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	06/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		CHANGE IN POWER OF			

86	06/10/2009	ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
85	06/05/2009	CORRESPONDENCE ADDRESS CHANGE			
84	05/01/2009	PETITION ENTERED			
82	02/03/2009	NON-FINAL REJECTION			
81	08/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
80	01/30/2009	NOTICE OF APPEAL FILED			
53	08/13/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	01/24/2009	DATE FORWARDED TO EXAMINER			
47	01/21/2009	AMENDMENT AFTER FINAL REJECTION		82	42
46	01/21/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	08/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	07/31/2008	ELECTRONIC REVIEW			
43	07/31/2008	EMAIL NOTIFICATION			
42	07/31/2008	MAIL FINAL REJECTION (PTOL - 326)			
41	07/29/2008	FINAL REJECTION			
36	05/23/2008	DATE FORWARDED TO EXAMINER			
35	04/30/2008	RESPONSE AFTER NON-FINAL ACTION			
34	05/23/2008	EMAIL NOTIFICATION			
		PG-PUB ISSUE			

33	05/22/2008	NOTIFICATION			
32	02/11/2008	CORRESPONDENCE ADDRESS CHANGE			
31	01/31/2008	MAIL NON-FINAL REJECTION	77		-1
29	01/22/2008	NON-FINAL REJECTION			
24	12/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	01/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
20	12/31/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19	12/31/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
18	12/31/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
17	12/27/2007	CORRESPONDENCE ADDRESS CHANGE			
16	12/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/08/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	02/05/2007	PRELIMINARY AMENDMENT			
13	10/31/2007	APPLICATION DISPATCHED FROM OIPE			
12	10/25/2007	SENT TO CLASSIFICATION CONTRACTOR			
		FILING RECEIPT - UPDATED			

11	10/25/2007				
10	02/05/2007	ADDITIONAL APPLICATION FILING FEES			
9	02/05/2007	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	07/16/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	10/11/2006	SEQUENCE ERRORS			
5	09/26/2006	CLEARED BY L&R (LARS)			
4	09/26/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/26/2006	CASE CLASSIFIED BY OIPE			
2	09/22/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/15/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Decision Date March 29, 2012

In re Application of Robert Highley

Application No. 11522093

Filed: 14-Sep-2006

Attorney Docket No. CHIS-1-1002

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), March 29, 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 final Office action. 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 an amendment and/or response, Request for Continued Examination, and the filing fee required under 37 CFR 1.17(e); (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 Request for Continued Examination and the amendment and/or response are 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 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	11522093
Filing Date	14-Sep-2006
First Named Inventor	Robert Highley
Attorney Docket Number	CHIS-1-1002
Title	Dual-access security system for medical records

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

Petition Fee

- ○ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ○ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ◉ Applicant(s) status remains as SMALL ENTITY.
- ○ Applicant(s) status remains as other than SMALL ENTITY.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ○ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ◉ RCE Request, Submission, and Fee are attached

Notice of Appeal

○	I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on
○	Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒	STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉	An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
○	An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
○	A sole inventor
○	A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
○	A joint inventor; all of whom are signing this e-petition
○	The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Mark L. Lorbiecki/
Name	Mark L. Lorbiecki
Registration Number	45643

UNITED STATES PATENT AND TRADEMARK OFFICE

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GOODMAN, ALLEN & FILETTI PLLC
4501 HIGHWOODS PARKWAY
SUITE 210
GLEN ALLEN, VA 23060

MAILED

AUG 31 2011

OFFICE OF PETITIONS

In re Application of
Karen Leigh Moore
Application No. 11/522,156
Filed: September 16, 2006
Attorney Docket No.: 0111.000003US

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 3, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 4, 2010. A Notice of Abandonment was mailed on March 24, 2010. On October 1, 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 $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3765 for appropriate action by the Examiner in the normal course of business on the amendment received August 10, 2011.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ExxonMobil Chemical Company
LawTechnology
P.O. Box 2149
Baytown TX 77522-2149

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Rehkugler, et al. :
Application No. 11/522,263 : ON PETITION
Filed: September 15, 2006 :
Attorney Docket No. **2006EM100** :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 29, 2010, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional applications set forth in the amendment filed concurrently with the instant petition.

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

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

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

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

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

The instant pending application was filed on September 15, 2006, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed applications was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed 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 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 applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 1700, Art Unit 1782 for appropriate action on the Request for Continued Examination and amendment filed December 29, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications.

Chris Bottorff
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/522,263	09/15/2006	1782	3400	2006EM100	60	5

CONFIRMATION NO. 2549

CORRECTED FILING RECEIPT

23455
EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

OC000000046108030

Date Mailed: 02/18/2011

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)

Richard Alan Rehkugler, Fairport, NY;
Salvatore James Pellingra, Wolcott, NY;
George Forman Cretekos, Farmington, NY;
Benoit Ambroise, Hachy, BELGIUM;

Power of Attorney: The patent practitioners associated with Customer Number 23455

Domestic Priority data as claimed by applicant

This application is a CIP of 11/096,298 04/01/2005 PAT 7,537,829
which is a CIP of 10/079,662 02/20/2002 ABN
which is a CIP of 09/791,325 02/22/2001 ABN

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

If Required, Foreign Filing License Granted: 10/05/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/522,263**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sealable packaging structures and applications related thereto

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/16/10

Paper No.: ____

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/522266 Patent No.: 7749542B2

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 should be entered except in Column 18, line 29, "Blume" was correct as it is the person's last name, Blume was the person who identified the species Eniscostemma littorale.

Terry a McKelvey
TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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November 16, 2010

Lawrence S. Perry
Fitzpatrick, Cella, Harper & Scinto
1290 Avenues of the Americas
New York, New York 10104-3800

Patent No: 7,749,547 B2
Application No: 11/522,266
Applicant: Marvin A. Heuer, et al.
Issued: July 6, 2010
Title: **NUTRITIONAL COMPOSITION AND METHOD FOR INCREASING CREATINE UPTAKE AND RETENTION IN SKELETAL MUSCLE, INCREASING MUSCLE MASS AND STRENGTH, INCREASING EXERCISE CAPACITY AND FOR AIDING RECOVERY FOLLOWING EXERCISE**

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 or 1.323.

Respecting the alleged error in column 18, line 29 of the printed patent per the examiner "Blume was correct as it is the person's last name. Blume was the person who identified the species Eniscostemma littorale".

In view of the foregoing your request in these matters is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7,943,819 B2
Ser. No. : 11/522,307
Inventor(s) : Baum et al.
Issued : May 17, 2011
Title : METHODS FOR GENETIC CONTROL OF INSECT INFESTATIONS IN PLANTS AND COMPOSIITIONS THEREOF
Docket No. : MNDE:002US
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

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

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

MAILED

DEC 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,943,819 :
Issue Date: May 17, 2011 :
Application No. 11/522,307 : DECISION ON PETITION
Filed: September 15, 2006 : UNDER 37 FCR 3.81
Attorney Docket No. MNDE:002US :

This is a decision on the Request under 37 CFR 3.81(B), filed December 7, 2011, requesting that the Title Page of the patent be corrected, via a Certificate of Correction under 37 CFR 1.323, by adding the name of an erroneously omitted second assignee. The Request has been treated as a petition under 37 CFR 3.81(b), and only as it relates to the addition of the name of the second assignee. Any other correction must be sought under separate cover. A completed Certificate of Correction form PTO/SB/44 accompanied the present petition.

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

Petitioner requests that the Title Page of the subject patent be corrected, pursuant to 37 CFR 3.81(b), to include the name and address of the erroneously omitted second Assignee, Devgen N.V. Zwijnaarde (BE). Accordingly, petitioner requests that a Certificate of Correction be issued to add the erroneously omitted second assignee to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under in 37 CFR 1.20(a), and $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been paid. 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 to add "Devgen N.V. Zwijnaarde (BE)" as a second assignee.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The matter is being referred to the Certificate of Corrections Branch for processing of a Certificate of Correction in US Patent 7,943,819.

Brian W. Brown
Petitions Examiner
Office of Petitions

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IPxLAW Group LLP
2901 Moorpark Avenue
Suite 255
San Jose CA 95128

MAILED

FEB 10 2012

OFFICE OF PETITIONS

In re Application of	:	
Silbernagel et al.	:	
Application No. 11/522432	:	
Filing or 371(c) Date: 09/18/2006	:	ON PETITION
Title of Invention: METHOD AND	:	
SYSTEM FOR DESIGNATING	:	
AND TRACKING FEATURE SETS FOR	:	
INDIVIDUAL ACCOUNTS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2012, 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 non-final Office action, mailed March 31, 2011. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on July 1, 2011. A Notice of Abandonment was mailed October 27, 2011.

Applicant files the present petition and includes an Amendment in response to the Office action.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 3691 for processing of the Amendment filed with the petition in due course.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: JOSEPH P. KINCART
2750 RIVERSIDE AVENUE
JACKONSVILLE, FL 32205

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 29, 2011

Randolph A. Smith
Smith Patent Office
1901 Pennsylvania Ave., N.W.
Washington, DC 20006

Patent No. : 7,957,320 B2
Appl. No. : 11/522,520
Inventor(s) : Hartmut König, et al.
Issued : June 7, 2011
Title : **METHOD FOR CHANGING A GROUP KEY IN A GROUP OF NETWORK ELEMENTS IN A NETWORK SYSTEM**
Docket No. : 0075/026001

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

MAILED

OCT 08 2010

OFFICE OF PETITIONS

MUNCY, GEISSLER, OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX, VA 22033

Patent No. 7,681,587	:	
Application No. 11/522,542	:	
Filed: September 15, 2006	:	NOTICE
Issued: March 23, 2010	:	
Attorney Docket No. 3914-0127PUS1	:	

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.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JAMES HELLWEGE
MUNCY, GEISSLER, OLDS & LOWE, PLLC
P O BOX 1364
FAIRFAX, VA 22038

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bor Z. Jang
9436 Parkside Drive
Centerville OH 45458

MAILED

DEC 07 2011

OFFICE OF PETITIONS

In re Application of :
Jang et al. :
Application No 11/522,580 : ON PETITION
Filed: September 19, 2006 :
For: PROCESS FOR PRODUCING FUEL :
CELL ELECTRODE, CATALYST-COATED :
MEMBRANE AND MEMBRANE- :
ELECTRODE ASSEMBLY :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 20, 2011, to revive the above-identified application.

The petition is **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 18, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 19, 2011. A Notice of Abandonment was mailed on August 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 1726 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously submitted amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Attorney Advisor
Office of Petitions

Cc: Mark P. levy
Thompson Hine LLP
200 Courthouse Plaza, N.E.
P.O. Box 8801
Dayton, OH 45401-8801

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

LEE & HAYES, PLLC
c/o Intellevate, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/02/2010

Applicant	: Georgios Palaskas	: DECISION ON REQUEST FOR
Patent Number	: 7657232	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/522,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **807** 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

GIBBONS P.C.
ONE GATEWAY CENTER
NEWARK, NJ 07102

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of :
Brian BINGHAM :
Application No. 11/522,658 : DECISION ON PETITION
Filed: September 18, 2006 :
Attorney Docket No. 10591-54824 :

This is a decision on the petition under 37 CFR 1.59(b), filed July 14, 2010, to expunge information from the above identified application.

The petition is **DISMISSED**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Petitioner requests that a document entitled RESPONSE, filed July 13, 2010, be expunged from the record. The petition fee required under 37 CFR 1.17(g) has been received.

The petition is deficient because the petition does not clearly identify the information requested to be expunged. Petitioner identifies a document with file name RESPONSE filed July 13, 2010. However this response is the submission required with the filing of a Request for Continued Examination (RCE). Furthermore the information that petitioner requests to expunge is considered to be material to the determination of patentability because the RESPONSE is considered to be the submission required for an RCE, containing an amendment to the claims along with remarks traversing the Office action dated March 3, 2010.

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-07-10

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/522683 Patent No.: 7722700

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: OK to ENTER

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE — Art Unit 1797

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
NASSEF et al. :
Application No. 11/522,815 : DECISION ON PETITION
Filed: 09/13/2006 :
Attorney Docket No. 020174-015710US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 10, 2009, which set a shortened statutory period for reply of three (3) months. Applicants did not submit a timely request for an extension of time for response under 37 CFR 1.136(a). Accordingly, the application became abandoned on December 11, 2009. A Notice of Abandonment was mailed on April 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner supplied: (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the 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. 12/764,819.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). As the $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded.

Telephone inquiries specific 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

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

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

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Oliver Theytaz, et al.	:	
Application No. 11/522,834	:	DECISION GRANTING PETITION
Filed: September 18, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 010C-012110	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/6/2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/582834 Patent No.: 7822639 B2

CofC mailroom date: 3/30/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

_____

_____

_____

_____

_____ 2629
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/6/2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/582834 Patent No.: 7822639 B2

CofC mailroom date: 3/30/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER

SPE 2629 **Art Unit**

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

Patent No. : 8105279
Serial No. : 11522836
Inventor(s) : Mernoe et al
Issued : 01/31/12
For : DISPENSING FLUID FROM AN INFUSION PUMP SYSTEM

Re: Request for Certificate of Correction

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

Granting of a petition under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error in the Assignee, when the correct name of the assignee was not provided in accordance with either section 3.81(a) or (b) (either no name or an incorrect name was provided in item 3 of the Issue Fee Transmittal, when the assignment had been recorded or submitted for recordation at the time the issue fee was paid, including after issuance of the patent.

A petition to correct the Assignee, under 37 CFR 1.183 should include:

(1) the petition fee set forth in 37 CFR 1.117(h) (currently $130);
(2) the correct name and address of the assignee; and
(3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

If, the petition under 37 CFR 1.183, is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), due to the mistake in not complying with CFR 3.81.

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

RoChaun Hardwick
Decisions & Certificates
of Correction Branch
(571) 272-0470

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

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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Ji Hyun Park	:	
Application No. 11/522,880	:	ON PETITION
Filed: September 15, 2006	:	
Attorney Docket No. P3612USC1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

A review of the record shows that a non-final office action was mailed on February 16, 2011, which set a shortened statutory period for reply of three (3) months. A response was received on May 16, 2011, which was timely filed.

The petition fee of $1,620 will be refunded to petitioner's credit card account.

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

This application is being referred to Technology Center AU 3717 for appropriate action by the Examiner in the normal course of business on the reply received May 16, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 02 2010

OFFICE OF PETITIONS

OGILVY RENAULT LLP
1, PLACE VILLE MARIE
SUITE 2500
MONTREAL QC H3B 1R1 CA CANADA

In re Application of
Keith R. Williams
Application No. 11/522,931
Filed: September 19, 2006
Attorney Docket No. 15098700 MCG/bs

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 8, 2010

The request is **APPROVED**.

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

The request was signed by Marie-Claude Gagnon on behalf of all attorneys of record who are associated with customer No. 20988. All attorneys/agents associated with the Customer Number 20988 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed March 16, 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: KEITH R. WILLIAMS
5440 WALKLEY AVENEW, APT. 14
MONTREAL QUEBEC, H4V 2M7
CANADA

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
11/522,931	09/19/2006	Keith R. Williams	15098700 MCG/bs

CONFIRMATION NO. 5270

POWER OF ATTORNEY NOTICE

20988
OGILVY RENAULT LLP
1, Place Ville Marie
SUITE 2500
MONTREAL, QC H3B 1R1
CANADA

Date Mailed: 08/02/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/08/2010.

- 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

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.
11/522,931	09/19/2006	Keith R. Williams		5270

7590 11/21/2011

KEITH R. WILLIAMS
5440 WALKLEY AVENUE, APT. 14
MONTREAL, QC H4V 2M7
CANADA

EXAMINER	
MENDIRATTA, VISHU K	

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
11/21/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEITH R. WILLIAMS
5440 WALKLEY AVENUE, APT. 14
MONTREAL QC H4V 2M7 CA CANADA

In re Application of:
WILLIAMS, KEITH R.
Serial No.: 11/522,931
Filed: Sep. 16, 2006
Docket: n/a
Title: GRADUATION GAME

DECISION ON PETITION TO REVIEW OFFICE ACTIONS AND RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed November 2, 2011 to review of the Office actions issued in this case. In particular, a review of the Office action promulgated on September 15, 2011 regarding withdrawal from consideration of newly added claims 146-153 due to constructive election is requested. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition to review Office actions is granted. The petition to withdraw the restriction requirement under constructive election is dismissed as premature.

A review of the record reveals that on September 15, 2011 the examiner issued a restriction requirement. In the restriction requirement, the examiner stated in the Office action that two groups of inventions are independent or distinct. On page 4 of the petition, petitioner disagrees with the examiner's restriction requirement because petitioner believes that the newly added claims 146-153 are directed to the same invention as the originally presented and examined claims. Since the examiner did not have a chance to answer the questions and arguments raised by the petitioner and possibly repeat the restriction of the Office Action of September 15, 2011, the petition is hereby dismissed as premature in accordance with 37 CFR 1.181(c)[1] and 37 CFR

[1] 37 CFR 1.181(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

1.144[2]. Under the circumstances, the examiner is directed to fully answer the applicant's arguments raised in the petition in the next Office action.

If petitioner continues to believe that the newly added claims 146-153 are directed to the same invention, petitioner may clearly admit on the record that the claimed inventions are not patentably distinct or submit evidence or identify such evidence now of record showing the inventions to be obvious variants. 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 inventions.

The examiner is also reminded that a restriction requirement based on the constructive election under MPEP 821.03 should include adequate explanation with examples why the originally claimed invention of claims 105-145 is independent or distinct from the newly added claims 146-153. In order to clarify the status of the restriction requirement, the examiner is directed to issue a complete restriction requirement in accordance with the Chapter 800 of MPEP procedure in his next Office action. In the alternative, the examiner may choose to withdraw the restriction requirement of September 15, 2011 and examine all pending claims in the next Office action.

With regard to the request to review of the remaining Office actions in this case, a review of the Office actions does not show that the examiner has been examining the application in an arbitrary and capricious manner. All Office actions are in compliance with the rules and regulations of the law as codified in 35 USC and 37 CFR.

Conclusion

For the reasons outlined above, petitioner's request to review of Office actions is granted. The examiner is directed to answer all questions raised in the petition.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3711 awaiting the applicant's response to the outstanding Office action of September 15, 2011. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

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[2] § 1.144 Petition from requirement for restriction: After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

The petition is granted.

Donald T. Hajec, Director
Technology Center 3700

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.
11/522,931	09/19/2006	Keith R. Williams		5270

7590 04/03/2012

KEITH R. WILLIAMS
5440 WALKLEY AVENUE, APT. 14
MONTREAL, QC H4V 2M7
CANADA

EXAMINER	
MENDIRATTA, VISHU K	

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
04/03/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEITH R. WILLIAMS
5440 WALKLEY AVENUE, APT. 14
MONTREAL QC H4V 2M7 CA CANADA

In re Application of:
WILLIAMS, KEITH R.
Serial No.: 11/522,931
Filed: Sep. 19, 2006
Attorney Docket: n/a
Title: GRADUATION GAME

:: DECISION ON PETITION
:: TO REVIEW EXAMINER'S
:: OFFICE ACTIONS AND
:: RESTRICITION
REQUIREMENT UNDER 37
CFR 1.144

This is a decision on the renewed petition filed on January 6, 2012 by which petitioner requests supervisory review of examiner's Office actions in this application. The petition is considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is dismissed.

In the petition, petitioner alleges that the examiner failed or refused to clearly state whether the applicant's amendments to the specification and drawing were accepted or rejected. The examiner is required to consider all papers filed by the applicant. It is not clear exactly which amendment(s) the applicant is referring to. However, amendments under 37 CFR 1.111 are entered as a matter of right, unless otherwise noted, provided the amendments do not introduce new matter and are in compliance with the applicable laws, rules and procedures, including 35 U.S.C. 112 and 113. The applicant is encouraged to directly contact the examiner and the supervisor to discuss any matter concerning the prosecution of patent applications. The examiner is also requested and urged to answer all questions raised by the applicant.

A review of all the Office actions reveals that the examiner did comply with all applicable rules and procedures, and that all Office actions were properly reviewed and signed by a Primary Examiner or a Supervisory Patent Examiner in accordance with M.P.E.P 1004. There is no evidence in the record that indicates any bias on the part of the examiner. The examiner's Office actions are not arbitrary and capricious. In particular, nowhere in the Office action of September 15, 2011 did the examiner refuse to consider any amendments filed by the applicant. On page one of the Office action of September 15, 2011, the examiner clearly indicated that the Office

action was in communication of the applicant's amendment of July 28, 2011. The Office action of September 15, 2011 is a complete Office action. There is no ambiguity found.

With regard to the examiner's rejection of claims, the examiner has taken a substantive position on patentability and the resolution of whether that position is correct or not is a matter for appeal pursuant to 35 U.S.C. 134 and 37 CFR 1.191. If there is any disagreement with the examiner on the merits, the issue is one that must be resolved by appeal. Thus, the request for supervisory authority presented in this petition amounts to a request for relief from the examiner's position. But such relief is unavailable because the correctness of the examiner's position is appealable only.

For the foregoing reasons, it appears that the examiner's Office actions in this application are proper and in full compliance with all applicable statutes and regulations.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181. Should petitioner have any further questions, he is invited to contact Henry Yuen, Supervisory Patent Examiner, at (571) 272-4856.

PETITION DISMISSED

Donald T. Hajec, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-16-10 Paper No.: _____

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/523083 Patent No.: 7733384

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

FOR IFW FILES: Should COC be approved

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

SPE 2622 Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

August 8, 2011

Patent No.: 7,826,582 B2
Applicant : Mark D. Kuhns, et al.
Issued : November 2, 2010
For : **NUMERICALLY CONTROLLED OSCILLATOR (NCO) OUTPUT CLOCK PHASE SMOOTHING**
Atty Docket No.: **NSC-P06597**

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 Rules 1.323.

Respecting the alleged error in adding inventor "Chao-Ping Huang" to the printed patent.The inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, not correction is in order here under Rule 1.323.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to change, add or delete inventor(s), after issuance of the patent

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

A certificate of correction will be issued to correct the remaining error in your request.

A petition under C.F.R. 1.324 should include:

A. the processing fee set forth in 37 CFR 1.20(b) (currently $130);
B. a statement from each person being added as an inventor that the inventorship occurred without any deceptive intention on his or her part, a statement from the current inventors agreeing to the change of inventorship of stating that they have no disagreement in regard to the requested change, and a statement from all assignees of the current inventors agreeing to the change of inventorship in the patent.

Further correspondence concerning this matter should be filed and directed to Supervisory Patent Examiner of Technology Center 2611 at the U.S. Patent and Trademark Office.

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

NSC c/o MURABITO HAO & BARNES, LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOLESH J. SKUTNIK PHD, JD
515 SHAKER ROAD
EAST LONGMEADOW MA 01028

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Neuberger, Wolfgang :
Application No. 11/523,203 : DECISION ON PETITION
Filed: September 19, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BJA415C :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/241,958, filed September 12, 2002.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable.

Further, copendency between the current application and the prior application is required. The instant application was filed September 19, 2006. The prior-filed application was abandoned on July 20, 2006. Since the applications are not copending, the benefit claim to the prior-filed nonprovisional application is improper. Unless applicant can establish copendency between the applications, the benefit claim will be not accepted.

Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

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

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: MCCARTER & ENGLISH, LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD, CT 06103

1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/26/10

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 11523232 Patent No.: 7574339

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

[redacted]

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

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_____

_____ 2123
SPE **Art Unit**

TC2100 SPE.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/523,240	09/19/2006	Ming Hao	200507147-1	5646

22879 7590 01/03/2011
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
RICKS, DONNA J

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
01/03/2011	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):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 3, 2011

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

In re Application of	:	
Ming Hao et al.	:	**DECISION ON PETITION**
Application No. 11523240	:	
Filed: 9/19/2006	:	
Attorney Docket No. 200507147-1	:	

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) September 19, 2006. Three (3) color copies of Figs. 2-5 were submitted with the petition. Replacement drawings for Figs. 1-2 were submitted on April 23, 2009. The replacement drawing for Fig. 2 was 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 EFS filings), and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

October 12, 2011

Robert A. Goetz
Casimir Jones SC
2275 Deming Way
Suite 310
Middleton, WI 53562

Patent No.	: 7,649,088 B2
Appl. No.	: 11/523,305
Inventor(s)	: John K. Fink, et al.
Issued	: January 19, 2010
Title	: **ATLASTIN**
Docket No.	: UM-13219

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

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

MAILED

OCT 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Fink et al.	:	
Application No. 11/523305	:	DECISION
Filing or 371(c) Date: 09/19/2006	:	ON PETITION
Patent No.: 7649088	:	
Issue Date: 01/19/2010	:	
Attorney Docket Number: UM-13219	:	

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Fink et al.	:	
Application No. 11/523305	:	DECISION
Filing or 371(c) Date: 09/19/2006	:	ON PETITION
Patent No.: 7649088	:	
Issue Date: 01/19/2010	:	
Attorney Docket Number: UM-13219	:	

This is a decision on the correspondence entitled "Request for Certificate of Correction," filed October 5, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), (filed December 13, 2006), and the fee submitted with the present petition. Further, Office assignment records reflect that Regents of the University of Michigan and The United States Government as Represented by the Department of Veterans Affairs are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Dr. Elliot McGucken
817 Levering Ave. #14
Los Angeles CA 90024

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of :
Elliot McGucken :
Application No. 11/523,309 : DECISION ON PETITION
Filed: September 19, 2006 : PURSUANT TO
Title: 22NETS: METHOD, SYSTEM, : 37 C.F.R. § 1.181(A)
AND APPARATUS FOR BUILDING :
CONTENT AND TALENT MARKETPLACES :
AND ARCHIVES BASED ON A SOCIAL :
NETWORK :

This is a decision on the petition filed July 19, 2011, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed April 6, 2011, which set an extendable period for reply of one month. No response was received, and no extensions of time under 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 7, 2011. A notice of abandonment was mailed on June 22, 2011.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

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

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> 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.**
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).
>
> (Emphases added).

ANALYSIS

With this petition, Petitioner has stated that the notice of non-compliant amendment of April 6, 2011 was not received at the correspondence address of record.[1] Petitioner has explained that he "regularly check(s) (his) mail for communications from the USPTO, and organize(s)/file(s) (his) mail accordingly on specific shelves/files."[2]

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

First, Petitioner has not provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO. Moreover, Petitioner has not established that the docketing system is sufficiently reliable. More specifically, the petition is silent as to how the placement of Office correspondence onto/into either a shelf or a folder serves to ensure that said

1 Petition, page 1.
2 Id.

correspondence is responded to in a timely manner. For example, does Petitioner also record due dates on a calendar?

Second, the petition is silent as to any search that might have been performed of the contents of the aforementioned shelves and folders, in order to determine if the notice of April 6, 2011 was received.

Third, Petitioner has not provided a copy of the record(s) used where the allegedly non-received notice of April 6, 2011 would have been entered had it been received.

Fourth, Petitioner has not provided a copy of the master docket, or stated that no such master docket exists and submitted other forms of evidence (such as, but not limited to, the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question).

As such, the record does not support a finding that the holding of abandonment should be withdrawn. The petition pursuant to Rule 1.181 is dismissed accordingly.

ALTERNATE VENUE

Due to the fact that Petitioner is a pro se Applicant, it is possible that he might not maintain a docketing system, a file jacket, a master docket, an incoming mail log, a calendar, a reminder system, or an individual docket record for the application in question. It follows that Petitioner might not be in a position to adequately support his assertion of non-receipt.

If such is the case, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a)[3] and/or (b).[4] Unless Petitioner believes that he can successfully establish that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard. Petitioner may download information about these petitions here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

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3 The fee that is associated with the filing of this petition is presently set at $270 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0061.pdf.

4 The fee that is associated with the filing of this petition is presently set at $810 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0064.pdf.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8] If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[9] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Courtesy Copy of the notice of non-compliant amendment, mailed April 6, 2011

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5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300: please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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.
11/523,309	09/19/2006	~~Elliot McGucken~~		3908

7590 04/06/2011

Dr. Elliot McGucken
817 Levering Ave. #14
Los Angeles, CA 90024

Courtesy Copy pg. 1/4

EXAMINER	
NIGH, JAMES D	
ART UNIT	PAPER NUMBER
3685	
MAIL DATE	DELIVERY MODE
04/06/2011	PAPER

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

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

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	11/523,309	MCGUCKEN, ELLIOT	
	Examiner	Art Unit	
	JAMES D. NIGH	3685	

All Participants:

(1) *JAMES D. NIGH*.

(2) *Dr. Elliot McGucken (Applicant)*.

Status of Application: *After non-final*

(3) _____.

(4) _____.

Date of Interview: *4 April 2011*

Time: *6:37 PM EDT*

Courtesy Copy pg. 2/4

Type of Interview:

☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☐ No
If Yes, provide a brief description:

Part I.

Rejection(s) discussed:
102 (b) and 103 (a) rejection

Claims discussed:
1-14

Prior art documents discussed:
Ginter (U.S. Patent 5,892,900

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
Explained that the provision of MPEP 707.07(j) regarding the writing of claims by an Examiner is only applicable when it becomes apparent to the Examiner that there is patentable subject matter disclosed in the Application, which is not presently the case.

Part III.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

/JAMES D NIGH/
Examiner, Art Unit 3685

(Applicant/Applicant's Representative Signature – if appropriate)

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	11/523,309	MCGUCKEN, ELLIOT	
	Examiner	Art Unit	
	JAMES D. NIGH	3685	

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

The amendment document filed on *25 February 2011* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☐ C. Other _____.

☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other _____.

☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
- ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
- ☐ C. Other _____.

☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
- ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
- ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
- ☒ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☒ E. Other: *No amended claims have been presented*.

☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

Courtesy Copy 13.3/14

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

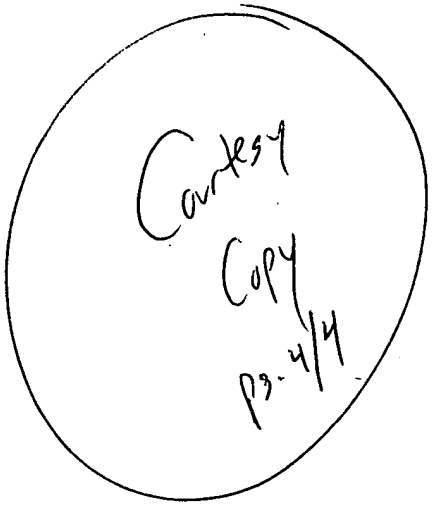
   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/JAMES D NIGH/ Examiner, Art Unit 3685	/Calvin L Hewitt II/ Supervisory Patent Examiner, Art Unit 3685

Continuation Sheet (PTOL-324)

Application No.

1) See attached interview summary



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

Paper No.

MAILED

NOV 03 2011

OFFICE OF PETITIONS

Dr. Elliot McGucken
817 Levering Ave. #14
Los Angeles CA 90024

In re Application of :
Elliot McGucken :
Application No. 11/523,309 : DECISION ON PETITION
Filed: September 19, 2006 : PURSUANT TO
Title: 22NETS: METHOD, SYSTEM, : 37 C.F.R. § 1.137(B)
AND APPARATUS FOR BUILDING :
CONTENT AND TALENT MARKETPLACES :
AND ARCHIVES BASED ON A SOCIAL :
NETWORK :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application, filed on October 11, 2011.

This petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed April 6, 2011, which set an extendable period for reply of one month. No response was received, and no extensions of time under 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 7, 2011. A notice of abandonment was mailed on June 22, 2011.

A petition pursuant to 37 C.F.R. § 1.181(a) was filed on July 19, 2011, and was dismissed via the mailing of a decision on August 10, 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 included the petition fee and the proper statement of unintentional delay.

It is noted that the fee that is associated with the filing of this petition is presently set at $930 for a small entity. Petitioner has submitted two payments of $810, which totals $1620. As such, $690 ($1620 minus $930) will be refunded to Petitioner's credit card in due course.

Petitioner has met requirements two and three of Rule 1.137(b). The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1] The first requirement has not been satisfied, as will now be pointed out.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is a reply which would have been sufficient to have avoided abandonment, had such reply been timely filed.[2] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (*i.e.*, a response to the notice of non-compliant amendment of April 6, 2011). **A proper response to the notice of non-compliant amendment of April 6, 2011 has not been located in the electronic file.** Petitioner has included "letter(7pages)" in an attempt to include a reply. See section 2(A) of the present petition. This seven-page submission has been reviewed by the undersigned, and Petitioner will note that it cannot serve as the required reply. Petitioner must submit a response to the notice of non-compliant amendment of April 6, 2011.

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)

1 See Rule 1.137(d).
2 See M.P.E.P. § 711.03(c).

are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. 1.137(b)" and should include a response to the notice of non-compliant amendment of April 6, 2011. This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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 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 any further action(s) of Petitioner.

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.
11/523,368	09/18/2006	Pankaj B. Dalal	P05441	6463

7590 10/04/2010

Stoneman Volk Patent Group
P.O. Box 40070
PHOENIX, AZ 85067-0070

EXAMINER	
EBERSMAN, BRUCE I	

ART UNIT	PAPER NUMBER
3691	

NOTIFICATION DATE	DELIVERY MODE
10/04/2010	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

September 30, 2010

Stoneman Volk Patent Group
P.O. Box 40070
PHOENIX AZ 85067-0070

In re Application of	:	
Pankaj B. Dalal	:	**DECISION ON PETITION**
Application No. 11523368	:	
Filed: 09/18/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **P05441**	:	***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) September 18, 2006.

The petition is **GRANTED**.

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

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

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

The petition filed 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.

Kimberly Terrell, Manger
Office of Data Management
Publications Branch

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: SONG3013/EM	Patent Number: 7665006
Filing Date (or 371(b) or (f) Date): 2006-09-20	Issue Date: 2010-02-16
First Named Inventor: Fong-Hwa Song	
Title: BLOCK CODE ERROR CORRECTING SYSTEM AND METHOD	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /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: 08/18/2010

Applicant	: Fong-Hwa Song	: DECISION ON REQUEST FOR
Patent Number	: 7665006	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/523,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **819** 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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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Martin Deggelmann, et al. :
Application No. 11/523,548 : DECISION ON PETITION
Filed: September 20, 2006 :
Attorney Docket No.: 07781.0285-00 :

This is a decision on the petition, filed August 19, 2009, requesting withdrawal of the holding of abandonment in the above-identified application under the provisions of 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

This application was held abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 7, 2008. A Notice of Abandonment was mailed on June 19, 2009. On August 19, 2009, the present petition was filed.

Petitioner asserts that the Office action dated October 7, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action of October 7, 2008, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The showing required to establish non-receipt of an Office communication must include 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar, reminder system, or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2179 for re-mailing the Office action of October 7, 2008. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APR 11 2011

OFFICE OF PETITIONS

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

In re Application of	:	
Takekuma et al.	:	
Application No. 11/523,558	:	DECISION ON PETITION
Filing Date: September 20, 2006	:	PURSUANT TO
Issue Date: November 13, 2007	:	37 C.F.R. § 1.78(A)(3)
Patent No. 7,295,034	:	
Attorney Docket No.:	:	
500.33011C14	:	
Title: SIGNAL TRANSMITTING	:	
DEVICE SUITED TO FAST SIGNAL	:	
TRANSMISSION	:	

This is a decision on the petition filed on September 2, 2010, pursuant to 37 C.F.R. § 1.78(a)(3), seeking to correct a claim for priority under 35 U.S.C. § 120 to nonprovisional Application number 11/049,663 (now issued as U.S. Patent No. 7,123,048), by way of a certificate of correction.

This petition pursuant to 37 C.F.R. § 1.78(a)(3) is **DISMISSED.**

A review of the electronic file record fails to disclose that an acceptable claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii). More specifically, the benefit claim that was included on filing incorrectly indicates that Application no. 08/773,753 (now issued as U.S. Patent No. 5,818,253) is a continuation of Application number 08/476,576 (now issued as U.S. Patent No. 5,568,063).

Application no. 08/773,753 (now issued as U.S. Patent No. 5,818,253) is a continuation of Application number 08/596,724 (now issued as U.S. Patent No. 5,627,481), which is a

continuation of Application no. 08/269,352 (now issued as U.S. Patent No. 5,548,226). Patentee seeks to delete the erroneous relationship and insert the correct relationship.

The application from which this patent issued was filed on September 30, 2006. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional applications after issuance of the application into a patent. See MPEP § 1481.

A petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

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

The petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3). However, this petition cannot be granted, as it is not "clear from the record of the patent and the parent application(s) that priority is appropriate." MPEP § 1481.03(II)(A).

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

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the deciding official.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5]

Anthony Knight
Supervisor
Office of Petitions

4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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JAN 31 2012

OFFICE OF PETITIONS

In re Application of	:	
Takekuma et al.	:	
Application No. 11/523,558	:	DECISION ON REENWED PETITION
Filing Date: September 20, 2006	:	PURSUANT TO
Issue Date: November 13, 2007	:	37 C.F.R. § 1.78(A)(3)
Patent No. 7,295,034	:	
Attorney Docket No.:	:	
500.33011C14	:	
Title: SIGNAL TRANSMITTING	:	
DEVICE SUITED TO FAST SIGNAL	:	
TRANSMISSION	:	

This is a decision on the renewed petition filed on August 5, 2011, pursuant to 37 C.F.R. § 1.78(a)(3), seeking to correct a claim for priority under 35 U.S.C. § 120 to nonprovisional Application number 11/049,663 (now issued as U.S. Patent No. 7,123,048), by way of a certificate of correction.

This petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED**.

A review of the electronic file record fails to disclose that an acceptable claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii). More specifically, the benefit claim that was included on filing incorrectly indicates that Application no. 08/773,753 (now issued as U.S. Patent No. 5,818,253) is a continuation of Application number 08/476,576 (now issued as U.S. Patent No. 5,568,063).

Application no. 08/773,753 (now issued as U.S. Patent No. 5,818,253) is a continuation of Application number 08/596,724 (now issued as U.S. Patent No. 5,627,481), which is a continuation of Application no. 08/269,352 (now issued as U.S. Patent No. 5,548,226). Patentee seeks to delete the erroneous relationship and insert the correct relationship.

The application from which this patent issued was filed on September 30, 2006. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional applications after issuance of the application into a patent. See MPEP § 1481.

A petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

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

An original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on September 2, 2010, and was dismissed via the mailing of a decision on April 11, 2011 which indicated that it is not clear from the record of the patent and the parent applications that priority is appropriate.

Upon further review, it is noted that this patent issued with a priority claim which states, *in pertinent part*, "No. 08/773,753, filed Dec. 24, 1996 (now U.S. Pat. No. 5,818,253); which is a Continuation of application Ser. No. 08/476,576, filed Jun. 7, 1995 (now U.S. Pat. No. 5,568,063); which is a Continuation of application Ser. No. 08/269,352, filed Jun. 30, 1994 (now U.S.

Pat. No. 5,548,226)." Each of these three references was expressly incorporated by reference.

Due to the aforementioned incorporation by reference of 08/773,753 (U.S. patent No. 5,818,253), the reference to 08/596,724 (U.S. patent No. 5,527,481) which is contained in the priority claim present in 08/773,753 (U.S. patent No. 5,818,253) means that application No. 11/523,558 (U.S. patent No. 7,295,034) contains a reference to 08/596,724 (U.S. patent No. 5,527,481) via incorporation by reference.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted. A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional applications, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications. A determination that Patentee is entitled to claim benefit of the prior-filed applications will be made by the Examiner prior to the mailing of a certificate of correction. Receipt of the $1,410 surcharge, the $100 certificate of correction fee and the $130 processing fee is acknowledged.

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

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

Anthony Knight
Director
Office of Petitions

Encl. Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
11/523,558	09/20/2006	2819	2450	0563-0271PUS25	39	4

CONFIRMATION NO. 5680

CORRECTED FILING RECEIPT

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000051670905

Date Mailed: 01/30/2012

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

Applicant(s)

Toshitsuqu Takekuma, Ebina-shi, JAPAN;
Ryoichi Kurihara, Hadano-shi, JAPAN;
Akira Yamagiwa, Hadano-shi, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number 02292

Domestic Priority data as claimed by applicant

This application is a CON of 11/049,663 02/04/2005 PAT 7123048
which is a CON of 10/989,279 11/17/2004 PAT 7015717
which is a CON of 10/241,477 09/12/2002 PAT 6873179
which is a CON of 10/194,310 07/15/2002 PAT 7372292
which is a CON of 09/891,322 06/27/2001 PAT 6420900
which is a CON of 09/716,251 11/21/2000 PAT 6441639
which is a CON of 09/084,017 05/26/1998 PAT 6172517
which is a CON of 08/773,753 12/24/1996 PAT 5818253
which is a CON of 08/596,724 02/05/1996 PAT 5627481
which is a CON of 08/269,352 06/30/1994 PAT 5548226

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.)
JAPAN 05-334631 12/28/1993
JAPAN 5-334631 12/28/1993

If Required, Foreign Filing License Granted: 10/10/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/523,558**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SIGNAL TRANSMITTING DEVICE SUITED TO FAST SIGNAL TRANSMISSION

Preliminary Class

326

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/523,598	09/20/2006	Byeong Moon Jeon	6111-000002/US/DVD	6134

30593 7590 10/22/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	

ART UNIT	PAPER NUMBER
2482	

MAIL DATE	DELIVERY MODE
10/22/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED

OCT 22 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/523,598 : DECISION ON REQUEST
Filed: September 20, 2006 :
For: **METHOD OF DETERMINING MOTION VECTORS FOR A BI-PREDICTIVE IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed August 31, 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. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application 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 the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/
Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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.
11/523,598	09/20/2006	Byeong Moon Jeon	6111-000002/US/DVD	6134

30593 7590 06/08/2011

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	
ART UNIT	PAPER NUMBER
2486	

MAIL DATE	DELIVERY MODE
06/08/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 07 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/523,598 : DECISION ON REQUEST
Filed: September 20, 2006 :
For: **METHOD OF DETERMINING MOTION VECTORS FOR A BI-PREDICTIVE IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed February 28, 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. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application 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 the undersigned whose telephone number is (571) 272-7418. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Mehrdad Dastouri/
Mehrdad Dastouri
Acting Quality Assurance Specialist
Technology Center 2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-22-10

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction for Appl. No.: 11523672 Patent No.: 7645269

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

Comments: Please, make all requested corrections

/Tatyana Zalukaeva/ — **SPE**

3761 — **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

ROSA E. KELLY
635 MERIDIAN AVE.
LAKELAND FL 33801-2645

MAILED
JUL 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Rosa Edmunds KELLY	:	
Application No. 11/523,721	:	DECISION ON PETITION
Filed: September 19, 2006	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 16, 2010. Accordingly, the date of abandonment of this application is December 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 payment of the issue fee of $755.00 and the publication fee of $300.00 previously paid December 21, 2010, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HANA VERNY
PETERS, VERNY, JONES, SCHMIDT & ASTON, LLP
425 SHERMAN AVENUE
SUITE 230
PALO ALTO, CA 94306

MAILED

DEC 22 2011

OFFICE OF PETITIONS

In re Application of
R, Lane Smith, et al.
Application No. 11/523,833
Filed: September 19, 2006
Attorney Docket No. 3831.14-1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 23, 2011 and resubmitted December 1, 2011.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Peters, Verny, Jones, Schmidt & Aston, LLP has been revoked by the assignee of the patent application on November 17, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

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

UNITED STATES 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 17 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, et al :
Application No. 11/524,025 : DECISION ON PETITION
Filed: September 19, 2006 : TO WITHDRAW
Attorney Docket No. QQ1-0196US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED.**

The 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
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DATALOGIC - STOEL RIVES LLP
C/O STOEL RIVES LLP
900 SW 5TH AVENUE
SUITE 2600
PORTLAND OR 97204

MAILED

AUG 26 2011

OFFICE OF PETITIONS

In re Patent No. 7,299,975
Issue Date: 27 November, 2007
Application No. 11/524,030
Filed: 19 September, 2006
Attorney Docket No. 51306/752:2

DECISION

This is a decision on the petition filed on 21 July, 2011, pursuant to 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

The address on the petition is different than that of record.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice 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.

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **NOT ACCEPTED**.

Status as a Small Entity was not altered in Petitioner's request to pay fees at the schedule set forth for not-small entities pending the following:

- **Petitioner should indicate the date on which the status actually changed, and chart out the respective fees paid, fees actually now scheduled, the difference(s) and the total due.**

- **Petitioner is given ONE month, not less than 30 days to resolve the matter.**

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

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC
DENNEMEYER & CO LTD
REGENT HOUSE – HEATON LANE
STOCKPORT CHESHIRE
UNITED KINGDOM SK4 1BB

---

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DATALOGIC - STOEL RIVES LLP
C/O STOEL RIVES LLP
900 SW 5TH AVENUE
SUITE 2600
PORTLAND OR 97204

MAILED

JAN 26 2012

OFFICE OF PETITIONS

In re Patent No. 7,299,975 :
Issue Date: 27 November, 2007 :
Application No. 11/524,030 : DECISION
Filed: 19 September, 2006 :
Attorney Docket No. 51306/752:2

This is a decision on the petition filed on 19 September, 2011, pursuant to 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

The address on the petition is different than that of record.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice 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.

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

Patent No. 7,299,975
Application No. 11/524,030

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

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course as is necessary.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

CC
DENNEMEYER & CO LTD
REGENT HOUSE – HEATON LANE
STOCKPORT CHESHIRE
UNITED KINGDOM SK4 1BB

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NAVAL MEDICAL RESEARCH CENTER
ATTN: (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING MD 20910-7500

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Guerry, et al :
Application No. 11/524,057 : DECISION
Filed/Deposited: 20 September, 2006 :
Attorney Docket No. NC 97,553 :

This is a decision on the petition filed on 25 February, 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:

Petitioner failed to reply timely and properly, to the Notice of Non-Compliant Amendment mailed (amendment unsigned) on 15 July, 2010, with reply due absent extension of time on or before 15 August, 2010.

The application went abandoned by operation of law after midnight 15 August, 2010.

The Office mailed the Notice of Abandonment on 11 February, 2011.

On 25 February, 2011, Petitioner filed a petition with fee pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment (signed) and made the statement of unintentional delay.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

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

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 1645 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 08/03/2010

Applicant	: Scott J. Carter	: DECISION ON REQUEST FOR
Patent Number	: 7658247	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/524,064	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **426** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Ozguz :
Application No. 11/524,090 : ON APPLICATION FOR
Filed: September 20, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. **088245-9318** :

This is in response to the "Request for Reconsideration of Patent Term Adjustment for Patent Application under 37 CFR 1.705(b)" filed January 12, 2011. Applicants submits that the patent term adjustment to be indicated on the patent is two hundred and twenty (220) days, not one hundred and seven (107) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent and overlap considerations.

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

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

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

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

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

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

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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.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on January 12, 2010.

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

MAY 26 2011

OFFICE OF PETITIONS

In re Patent No. 7,919,844	:	DECISION ON REQUEST
Ozguz, et al.	:	FOR
Issue Date: April 5, 2011	:	RECONSIDERATION OF
Application No. 11/524,090	:	PATENT TERM ADJUSTMENT
Filed: September 20, 2006	:	and
Atty Docket No.088245-9318	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 23, 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 two hundred and nine (209) 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 zero (0) days is **GRANTED to the extent indicated herein.**

Patentees dispute the reduction of 120 days to the patent term adjustment pursuant to 37 CFR 1.704(c)(10)for the filing of an amendment under 37 CFR 1.132 on November 29, 2010. Patentees' assert the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) should be 11 days. Patentees' argument has been considered, and is persuasive to the extent indicated below.

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

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

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

or

(ii) Four months;

In this instance, the record reveals that the Office took action in response to the filing of amendment under § 1.312 on December 9, 2010. Accordingly, the period of adjustment of the term of the patent should be reduced by 11 days, beginning on the date the amendment under 37 CFR 1.312 was filed, November 29, 2010, and ending on the mailing date of the response to the amendment under 37 CFR 1.312, December 9, 2010. **Accordingly, the period of reduction of 120 days will be removed and a period of reduction of 11 days will be entered.**

Further review of the file history reveals that it is appropriate to enter a reduction of 297 days to the patent term adjustment under 37 CFR 1.704(c)(3). The record reveals a restriction/election requirement was mailed May 30, 2008, to which applicant did not respond. The application became abandoned on June 1, 2008. On March 9, 2009, applicant filed a grantable petition under 37 CFR 1.137(b) to revive the application. The decision granting the petition was mailed April 23, 2009. The period of reduction to the patent term adjustment under 37 CFR 1.704(c)(3) is 297 days, beginning July 1, 2008—the date the application went abandoned, and ending April 23, 2009—the date of mailing of the decision reviving the application. **Accordingly, the period of reduction to the patent term adjustment to be entered under 37 CFR 1.704(c)(3) for this period is 297 days.**

It is also noted that a reduction to the patent term adjustment of 53 days is also warranted under 37 CFR 1.704(c)(7) as a reply having an omission was filed January 15, 2009. The period of reduction under 37 CFR 1.704(c)(7), began January 16, 2009—the date the reply having the omission was filed—and ended March 9, 2009,--the date the reply correcting the omission was filed. It is noted that the period of reduction under 37 CFR 1.704(c)(7) entirely overlaps with the period of reduction under 37 CFR 1.704(c)(3). Accordingly, only one period of reduction, totaling 297 days, is being entered.

Accordingly, the patent term adjustment is 0 days (192 days of A delay + 113 days of B delay - 0 days of overlap - 402 days of applicant delay).

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

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

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 **zero(0)** 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 : 7,919,844 B2

DATED : Apr. 5, 2011

INVENTOR(S) : Ozguz

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 (100) days

Delete the phrase "by 100 days" and insert – by 0 days--

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):
11/524,289	
First Named Inventor:	**Title of Invention:**
Satsu	MAGNET, MAGNET MAGNETIC MATERIAL, COATING FILM FORMIG TREATMENT LIQUID, AND ROTATING MACHINE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Alan E. Schiavelli/	Date 5/12/11
Name (Print/Typed) Alan E. Schiavelli	Practitioner Registration Number 32,087

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

☐ *Total of _____ 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
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of :
Yuichi Satsu et al. :
Application No. 11/524,289 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No.: 520.46617X00 :

This is a decision on the request filed May 12, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on March 2, 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 1785 for re-mailing the Office action of March 2, 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
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MCQUAIDE BLASKO
811 UNIVERSITY DRIVE
STATE COLLEGE, PA 16801

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Yuri P. BELOV, et **al.** :
Application No. 11/524,426 : DECISION GRANTING PETITION
Filed: September 20, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **63035-1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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]

There is no indication that the petition is signed patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Bruce Grant appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Grant desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Grant, 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.

---

[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.*

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

This application is being referred to Technology Center AU 1776 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

cc: **BRUCE D. GRANT**
GRANT ANDERSON, LLP
6540 LUSK BLVD, SUITE C210
SAN DIEGO, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE CA 92612

MAILED

FEB 27 2012

OFFICE OF PETITIONS

In re Patent No8,107,447
Issue Date: 31 January, 2012
Application No. 11/524,487
Filed: 21 September, 2006
Attorney Docket No. 1291-047.101

DECISION

This is a decision on the petition filed on 16 December, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioners also are reminded to chart out the fees paid/fees due/balance due in their submission(s) to the Office. (*See, generally*: 37 C.F.R. §1.27, §1.28, MPEP §509.02 and 509-03.)

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

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

Patent No8,107,447
Application No. 11/524,487

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to the IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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

§1.2 Business to be transacted in writing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-24-11 **Paper No.**: _____

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/524,508 Patent No.: 7476729

CofC mailroom date: _____

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

FOR IFW FILES: Check Sequence list

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

Chris Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

/Heather Calamita/ 1635
SPE **Art Unit**

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CHRISTOPHER J. WHEWELL
WESTERN PATENT GROUP
6020 TONKOWA TRAIL
GEORGETOWN TX 78628

MAILED
MAR 1 2 2012
OFFICE OF PETITIONS

In re Patent No. 7,300,957
Issue Date: November 27, 2007
Application No. 11/524,556
Filed: September 21, 2006
Attorney Docket No. 091406

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 23, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 28, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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.
11/524,690	09/21/2006	Andrew Co Si Huynh	19621-0005001	9026

26231 7590 11/08/2011

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

EXAMINER	
LAM, THANH	
ART UNIT	**PAPER NUMBER**
2834	

NOTIFICATION DATE	DELIVERY MODE
11/08/2011	ELECTRONIC

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

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

NOV 8 2011

In re Application of Andrew Co Si Huynh :
Appl. No.: 11/524,690 : DECISION ON PETITION
Filed: September 21, 2006 : UNDER 37 C.F.R. § 1.59
Attorney Docket No.: 19621-0005001 :
For: ELECTRIC MACHINE WITH CENTRIFUGAL :
IMPELLER :

This is a decision on the petition under 37 C.F.R. §1.59(b), filed September 2, 2011, to expunge information filed concurrently from the above-identified application.

The petition is DENIED.

Petitioner requests that the information submitted pursuant to MPEP 724.04(a) on June 22, 2011 be expunged because the material is proprietary and has not been made public. Petitioner commits to retain the material for the period of any patent with regard to which the proprietary information is being submitted and has paid the required petition fee.

Pursuant to M.P.E.P. § 724.05. I., "... Any such petition to expunge information submitted under MPEP § 724.02 should be submitted at the time of filing the information under MPEP § 724.02 and directed to the Technology Center (TC) to which the application is assigned. Such petition must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) 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;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Any such petition to expunge should accompany the submission of the information and, in any event, must be submitted in sufficient time that it can be acted on prior to the mailing of a notice of allowability or a notice of abandonment for original and reissue

> applications...If a petition to expunge is not filed prior to the mailing of a notice of allowability or a notice of abandonment for original and reissue applications, or prior to, or shortly after (i.e., in time to be addressed before the reexamination proceeding enters the reexamination certificate printing process), the mailing of a NIRC for reexamination proceedings, any material then in the file will remain therein and be open to the public in accordance with 37 CFR 1.14..." (Emphasis added).

The petition was filed after the application was allowed on July 14, 2011 and, thus, was not timely filed.

For the above-stated reason, the petition to expunge is denied. The information submitted with the IDS on August 19, 2011 will remain in the file record and be open to the public in accordance with 37 C.F.R. §1.14.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Diego F.F. Gutierrez

Diego Gutierrez, Acting TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NOV 21 2011

OFFICE OF PETITIONS

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

In re Application of :
Huynh :
Application No. 11/524,690 : DECISION ON PETITION
Filed: September 21, 2006 : UNDER 37 CFR 1.313(c)
Attorney Docket No. 19621-0005001 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 14, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2834 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/524,690	09/21/2006	Andrew Co Si Huynh	19621-0005001	9026

26231 7590 03/05/2012

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

EXAMINER	
LAM, THANH	

ART UNIT	PAPER NUMBER
2834	

NOTIFICATION DATE	DELIVERY MODE
03/05/2012	ELECTRONIC

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

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAR 5 2012

In re Application of Andrew Co Si Huynh :
Appl. No.: 11/524,690 : DECISION ON PETITION
Filed: September 21, 2006 : UNDER 37 C.F.R. § 1.59
Attorney Docket No.: 19621-0005001 :
For: ELECTRIC MACHINE WITH CENTRIFUGAL :
IMPELLER :

This is a decision on the petition under 37 C.F.R. §1.59(b), filed November 21, 2011, to expunge information filed concurrently from the above-identified application.

The petition is GRANTED.

Petitioner requests that the information submitted pursuant to MPEP 724.04(a) on June 22, 2011 be expunged because the material is proprietary and has not been made public. Petitioner commits to retain the material for the period of any patent with regard to which the proprietary information is being submitted and has paid the required petition fee.

The information in question has been determined by the undersigned to not be material to the examination of the instant application and may be expunge. The expunged material, contained in an Artifact file in the Image File Wrapper, has been removed from the Artifact file and is being discarded in view of this decision. Note that the Artifact file remains in the Contents of the Image File Wrapper but without the expunged information.

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

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Wynn Coggins, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/12/11

TO SPE OF : ART UNIT: 1652 Attn: MONDESI ROBERT B (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/524693 Patent No.: 7833772

CofC Mailroom date: 01/06/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

Robert B

SPE

1652

Art Unit

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JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS, TX 75202-3797

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NOV 03 2011

OFFICE OF PETITIONS

Applicants: Hu, et al.
Appl. No.: 11/524,703
Filing Date: September 21, 2006
Title: SYNTHESIS OF COLUMNAR HYDROGEL COLLOIDAL CRYSTALS IN WATER-ORGANIC SOLVENT MIXTURE
Attorney Docket: UNTD-0004 (122302.00094)
Pub. No.: US 2010/02461814 A1
Pub. Date: October 14, 2010

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 3, 2010, for the above-identified application.

The request is Dismissed as Moot.

A review of the record discloses that the above-identified application issued as U.S. Patent No. 7,989,505 on August 2, 2011, which is prior to consideration of the present request for reconsideration. Applicant may wish to consider filing a request for a certificate of correction under the provisions 37 CFR 1.322 to correct Office errors in the patent, if necessary.

Inquiries relating to this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

/Christopher Bottorff/

Christopher Bottorff
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY CENTER LLC
9233 WARD PARKWAY
SUITE 100
KANSAS CITY MO 64114

In re Application of :
Kevin J. Fulton :
Application No. 11/524,727 : ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. 3996

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 10, 2010.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 15, 2010. This Notice set a statutory period for reply of three months. No issue fee having been received, the application became abandoned on July 16, 2010. The Office mailed a Notice of Abandonment on August 2, 2010.

With the instant petition, petitioner paid the petition fee, made a statement of unintentional delay, and submitted the required reply in the form of the issue fee.

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. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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LAHIVE & COCKFIELD LLP
FLOOR 30 SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Browing, et al.	:	
Application No. 11/524,786	:	ON REQUEST FOR
Filed: September 21, 2006	:	RECONSIDERATION OF
Attorney Docket Number: BGN-A225CN	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 29, 2009. Applicant believes that the correct total PTA to date is not 114 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment, but rather 259 days.

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 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, Applicants also point out that they should be assessed additional delay of fifty-nine (59) days for the submission of a late reply to a October 12, 2006 Notice to File Missing Parts. As the reply was submitted on March 12, 2007, an additional fifty-nine (59) days of applicant delay should be accorded pursuant to 37 CFR 1.704(b).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment is acknowledged.

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).

In view of the above, the corrected determination of Patent Term Adjustment at the time of the mailing of the Notice of Allowance is **fifty-five (55) days** (225 days of PTO delay, reduced by 170 days of applicant delay).

The 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 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.

Day : Saturday
Date: 8/14/2010

PALM INTRANET

Time: 13:59:01

PTA Calculations for Application: 11/524786			
Application Filing Date:	09/21/2006	PTO Delay (PTO):	225
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	111
Post-Issue Petitions:	0	Total PTA (days):	55
PTO Delay Adjustment:	-59		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	08/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		59	
57	09/30/2009	MAIL NOTICE OF ALLOWANCE			
56	09/28/2009	DOCUMENT VERIFICATION			
55	09/28/2009	ISSUE REVISION COMPLETED			
54	09/28/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	09/28/2009	CASE DOCKETED TO EXAMINER IN GAU			
52	09/26/2009	EXAMINER'S AMENDMENT COMMUNICATION			
51	09/26/2009	NOTICE OF ALLOWABILITY			
46	08/15/2009	DATE FORWARDED TO EXAMINER			
45	08/13/2009	AMENDMENT AFTER FINAL REJECTION			
44	04/17/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	40
43	05/15/2009	MAIL FINAL REJECTION (PTOL - 326)			
42	05/13/2009	FINAL REJECTION			
41	04/22/2009	DATE FORWARDED TO EXAMINER			
40	04/09/2009	RESPONSE AFTER NON-FINAL ACTION		89	31
39	04/17/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	04/22/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	04/17/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	10/10/2008	MAIL NON-FINAL REJECTION			
30	10/07/2008	NON-FINAL REJECTION			
27	08/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	08/18/2008	REFERENCE CAPTURE ON IDS			

25	08/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		14	22
24	08/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/21/2008	DATE FORWARDED TO EXAMINER			
22	08/04/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
21	07/03/2008	MAIL RESTRICTION REQUIREMENT	225		-1
20	07/01/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
19	11/13/2007	CORRESPONDENCE ADDRESS CHANGE			
18	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
17	07/05/2007	PG-PUB ISSUE NOTIFICATION			
16	05/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	05/08/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	04/17/2007	APPLICATION DISPATCHED FROM OIPE			
13	04/17/2007	APPLICATION DISPATCHED FROM OIPE			
12	03/28/2007	SENT TO CLASSIFICATION CONTRACTOR			
11	03/29/2007	APPLICATION IS NOW COMPLETE			
10	03/12/2007	ADDITIONAL APPLICATION FILING FEES			
9	03/12/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/11/2006	CLEARED BY L&R (LARS)			
6	10/04/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	10/03/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	10/03/2006	CASE CLASSIFIED BY OIPE			
3	09/29/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	09/21/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/21/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

Michael B. Martin
Patent and Licensing Department
Nalco Company
1601 West Diehl Road
Naperville IL 60563-1198

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APR 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Tran et al.	:	DECISION ON
Application No. 11/524,815	:	PETITION
Filed: September 21, 2006	:	
Atty Docket No. 000049459	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 11, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed August 4, 2010. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply having been received and no extension of time obtained, the application became abandoned effective November 5, 2010. A courtesy Notice of Abandonment was mailed on February 16, 2011.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 1771 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on March 11, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HOFFMANN-LA ROCHE INC
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340 KINGSLAND STREET
NUTLEY NJ 07110

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AUG 02 2010

OFFICE OF PETITIONS

In re Application of
Bissantz, et al.
Application No. 11/524,978
Filed: September 21, 2006
Attorney Docket Number: 23258 US

: ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 20, 2010. Applicants believe that they should be accorded an additional PTA of 253 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 seventy-two (372) days** (461 days of PTO delay, reduced by 89 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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RY60-30
Rahway NJ 07065

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Application of :
Howlett et al. :
Application No. 11/524,979 : ON APPLICATION FOR
Filed: September 21, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. FC06534US01 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed April 28, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is nine hundred twenty-seven (927) days, not four hundred seventy-eight (478) 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 after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

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

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

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.
11/525,057	09/22/2006	Corinna Sundermann	029310.58255US	8932

23911 7590 12/29/2010
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER	
AULAKH, CHARANJIT	
ART UNIT	PAPER NUMBER
1625	
MAIL DATE	DELIVERY MODE
12/29/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DEC 2 9 2010

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of: Corinna SUNDERMANN :
Serial No: 11/525, 057 : DECISION
Filed: March 22, 2005 : ON
Attorney Docket No: 029310.58255US : PETITION
Title: Substituted 1,4,8-trazaspiro[4,5]decan-2-one :
Compounds for Use in the Treatment of Obesity

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on October 7, 2010.

BACKGROUND

On September 22, 2006 instant application was filed. Instant application is a continuation of a PCT national stage application, thus follows US restriction practice. Applicant filed a claim set of 22 claims which was subjected to a restriction requirement on August 28, 2009.

In the restriction requirement of March6, 2009, the examiner presented the following groups:

I. Claims in part 1-22, drawn to compounds of formula I where R3 represents –C(=O)-R4 and R1 represents an aryl or heteroaryl group bonded via linear or branched alkylene group comprising no heteroatom, pharmaceutical compositions containing these compounds and methods of treatment using these compounds, classified in class 544, subclass 124.
II. Claims in part 1-22, drawn to compounds of formula I where R3 represents –C(=O)-R4 group and R1 represents -C(=O)-OR5 group, pharmaceutical compositions containing these compounds and method of treatment using these compounds, classified in class 546, subclass 20.
III. Claims in part 1-22, drawn to compounds of formula I where R3 represents –C(=O)-R4 group and R1 represents -O(C=O)-R6 group, pharmaceutical composition containing these compounds and methods of treatment using these compounds, classified in class 544, subclass 358.

IV. Claims in part 1-22, drawn to compounds of formula I other than defined above for Groups I, II and III, classified in classes 540, 544 and 546, numerous subclasses within each class.

On September 30, 2009, applicant elected Group IV and traversed the restriction requirement. Applicant argued that a restriction for election of species would have been proper and voluntarily made an election of compound (2) as the species to advance prosecution.

On December 1, 2009, a non-final Office action was mailed. Examiner revised the restriction:

I. Claims 11-13 and in part 1-10 and 14-22, drawn to compounds of formula I where R3 represents -C(=O)-R4 group, pharmaceutical compositions containing these compounds and methods of treatment using these compounds.
II. Claims in part 1-10 and 14-22, drawn to compounds of formula I where R3 is other than -C(=O)-R4 group, pharmaceutical compositions containing these compounds and methods of treatment using these compounds.

Based on the elected species, the examiner presumed election of Group I. The examiner also indicated the presence of allowable subject matter in the elected group if certain 112 issues were overcome and objected to claims 1-10 and 14-22 as containing non-elected subject matter.

On March 1, 2010, applicant provisionally elected Group I and traversed the revised restriction requirement. Applicant pointed out that their claims fully satisfied the test for a proper Markush group and requested that the claims be examined in accordance with the applicable provision of MPEP 803.02.

On May 11, 2010, a final Office action was mailed. The examiner maintained the revised restriction requirement and that it's a burdensome search since it would require different structure queries and classifications based on the variable R1, R2 and R3, thus restriction requirement is proper and made the restriction requirement Final.

On October 7, 2010, the present petition was filed requesting reconsideration of the restriction requirement.

DISCUSSION

The prosecution history and the petition have been carefully reviewed. Review of the claims reveals that the compounds as claimed have a common structure, the 1,4,8-triazaspiro [4,5] decan-2-one and a common activity attributable to that structure, their sodium channel modulating and 5-HT, NA and serotonin reuptake inhibiting activities. It is true that examiner made restriction and election of species within the elected group. Examiner had never pointed out why compounds where R3 is -C(=O)-R4 are patentably distinct from compounds where R3 is any other definitions other than C(=O)-R4. Even if assumed that the restricted groups are proper, the examiner didn't follow the election of species practice.

Accordingly, the petition is granted.

DECISION

The petition is **Granted** for the reasons set forth above.

The application is being forwarded to examiner after mailing of this decision. All claims are under examination. The examiner is advised to follow Markush claims practice (MPEP 803.02) and election of species practice (MPEP 806.04).

Should there be any questions about this decision, please contact Supervisory Patent examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott, for

Remy Yucel
Director, Technology Center 1600

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: 10808-366	
Application Number: 11/525,113	Filing Date (or 371(b) or (f) Date): September 21, 2006
Patent Number: 7,656,037	Issue Date: February 2, 2010
First Named Inventor: Martina Hommel	
Title: INTEGRATED CIRCUIT WITH IMPROVED COMPONENT INTERCONNECTIONS	

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 /Edward Machado/	Date August 2, 2010
Name (Print/Typed) Edward Machado	Registration Number 58,372

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

☐ *Total of _____ forms are submitted.

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

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

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

Mail Date: 08/12/2010

Applicant	: Martina Hommel	: DECISION ON REQUEST FOR
Patent Number	: 7656037	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/525,113	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **402** 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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WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON, DC 20005-1503

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Application of :
M'Asuncion Fernandez Camacho, et al. :
Application No.: 11/525,119 : ON PETITION
Filed: September 22, 2006 :
Attorney Docket No.: 2006_1615A :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 28, 2011, 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 1788 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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MUNCY, GEISSLER, OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX VA 22033

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Application:	:	
Lepe et al.	:	
Application No. 11/525,120	:	ON PETITION
Filed: September 22, 2006	:	
Attorney Docket No. 3948-0101PUS1	:	

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

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

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

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

Telephone 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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P.O. Box 1450
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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

MAILED
AUG 17 2010
OFFICE OF PETITIONS

In re Application of :
Yashen Xia :
Application No. 11/525,197 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. HYZ-001.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 21, 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 at midnight 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 $810.00, and (3) a proper statement of unintentional delay.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. *See* 37 CFR 1.33(a). A courtesy copy of this decision is being mailed to Yashen Xia, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received July 1, 2010.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Yashen Xia
1784 Washington St., #1
Newton, MA 02466

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OCT 20 2010

OFFICE OF PETITIONS

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

In re Application of :
YASHEN XIA :
Application No. 11/525,197 :
Filed: September 21, 2006 :
Attorney Docket No. **HYZ-001.01** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed September 9, 2010.

The request is **APPROVED**.

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

The request was signed by Beth E. Arnold on behalf of all attorneys of record who are associated with Customer Number 25181.

All attorneys/agents associated with Customer Number 25181 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 Yashen Xia at the address indicated below.

There is no outstanding Office action mailed that requires a reply from the applicant.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: YASHEN XIA, PH.D.
HyChar Energy LLC
1784 Washing Street, #1
Newton, MA 02466

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/525,197	09/21/2006	Yashen Xia	HYZ-001.01

CONFIRMATION NO. 8159

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

POWER OF ATTORNEY NOTICE

OC000000044088095

Date Mailed: 10/20/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

- 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.

/jlburke/

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

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MAR 17 2011

OFFICE OF PETITIONS

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

In re Application of	:	
COHEN, et al	:	
Application No. 11/525,198	:	DECISION ON PETITION
Filed: September 20, 2006	:	TO WITHDRAW
Attorney Docket No. 0306A-003-008-000000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 26, 2011.

The request is **NOT APPROVED**.

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

A review of the file record indicates that Lewis C. Lee and the attorneys associated with Customer Number 49651 do not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further, the request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

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

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

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

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

LEWIS C. LEE
601 W RIVERSIDE, SUITE 1400
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : **8106066**
Ser. No. : **11/525213**
Inventor(s) : **SCHUMACHER, RICHARD**
Issued : **01/31/2012**
Title : **INDAZOLES, BENZOTHIAZOLES, BENZOISOTHIAZOLES, BENZISOXAZOLES, PYRAZOLOPYRIDINES, ISOTHIAZOLOPYRIDINES, AND PREPARATION AND USES THEREOF**
Docket No. : **MEMORY-0060**

Re: Request for Certificate of Correction

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

In regards to the alleged error(s) in the Column 179 Line 17, the requested changes don't appear where indicated.

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

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201
OL

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Paper No.

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

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Curtis L. Brown	:	DECISION ON APPLICATION
Application No. 11/525,304	:	FOR
Filed: 09/22/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
PCH1131USNP	:	

This letter is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE filed on August 23, 2010. Applicants request that the initial determination of patent term adjustment be increased by 81 (85 - 4) days from 606 days to 687 days.

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

The Office has updated the PALM and PAIR screens to reflect that the revised Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is six hundred eighty-seven (687) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On July 12, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is six hundred six (606) days (691 days of Office delay reduced by 85 days of applicant delay).

On August 23, 2010, applicants timely submitted the instant application for patent term adjustment.[1]

[1] PALM records show that the Issue Fee was received on August 24, 2010.

Applicants assert that the reduction of 85 days for applicant delay in connection with the filing of an Information Disclosure Statement (IDS) on November 7, 2008, is not warranted.

Upon review, applicants are correct. The IDS filed on November 7, 2008, does not fall under any of the circumstances enumerated under 37 CFR 1.704 that would result in a reduction in the period of patent term adjustment. Accordingly, the 85 day reduction for applicant delay in connection with filing the IDS on November 7, 2008, is not warranted and will be removed.

Applicants further submit that a period of reduction of four (4) days for applicant delay should be entered in connection with the filing of a supplemental amendment filed on June 18, 2010, four (4) days after the day after the date a reply was filed, on June 14, 2010.

Applicants are correct. Accordingly a four (4) day period of reduction for applicant delay will be entered.

In view thereof, the revised determination of PTA at the time of the mailing of the Notice of Allowance is **six hundred eighty-seven (687)** days (691 days of PTO delay, reduced by 4 (85 - 85 + 4) days of Applicant delay).

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

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

11/525,304	LIQUID DISPENSING APPARATUS AND DEVICE	11-09-2010::10:09:07

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/525,304

Filing or 371(c) Date:	09-22-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	691
A Delays:	691	PTO Manual Adjustments:	81
B Delays:	0	Applicant Delays:	85
C Delays:	0	Total PTA Adjustments:	687

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
72	11-09-2010	Adjustment of PTA Calculation by PTO	81		0
53	07-12-2010	Mail Notice of Allowance			0
52	07-07-2010	Issue Revision Completed			0
51	07-07-2010	Notice of Allowance Data Verification Completed			0
50	07-07-2010	Document Verification			0
49	07-07-2010	Examiner's Amendment Communication			0
48	07-06-2010	Notice of Allowability			0
47	06-22-2010	Date Forwarded to Examiner			0
46	06-18-2010	Supplemental Response			0
45	06-14-2010	New or Additional Drawing Filed			0
44	06-16-2010	Date Forwarded to Examiner			0
43	06-14-2010	Response after Non-Final Action			0
42	04-22-2010	Electronic Review			0
41	04-22-2010	Email Notification			0
40	04-22-2010	Mail Non-Final Rejection			0
39	04-20-2010	Non-Final Rejection			0
38	02-02-2010	Date Forwarded to Examiner			0
37	12-23-2009	Response after Non-Final Action			0
36	01-28-2010	Email Notification			0
35	01-28-2010	Change in Power of Attorney (May Include Associate POA)			0
34	01-26-2010	Correspondence Address Change			0
33	12-01-2009	Mail Examiner Interview Summary (PTOL - 413)			0
32	11-24-2009	Examiner Interview Summary Record (PTOL - 413)			0
31	10-13-2009	Mail Non-Final Rejection	691		-1
30	10-10-2009	Non-Final Rejection			0
29	03-10-2008	Information Disclosure Statement considered			0
28	11-07-2008	Information Disclosure Statement considered			0
24	08-14-2008	Fee Payment Recorded (fees filed separately e.g. not with original papers, etc).			0
23	08-14-2008	Preliminary Amendment			0
22	05-11-2009	Case Docketed to Examiner in GAU			0
21	11-07-2008	Information Disclosure Statement (IDS) Filed		85	24
20	11-07-2008	Reference capture on IDS			0
18	11-07-2008	Information Disclosure Statement (IDS) Filed			0
17	08-14-2008	Preliminary Amendment			0
16	07-31-2008	Mail Notice of Required Fees Due			0
15	07-30-2008	Notice of Additional Fee Due			0
14	06-18-2008	Preliminary Amendment			0
13	05-23-2008	Preliminary Amendment			0
12	03-10-2008	Information Disclosure Statement (IDS) Filed			0
11	03-10-2008	Reference capture on IDS			0

10	03-27-2008	PG-Pub Issue Notification	0
9	03-10-2008	Information Disclosure Statement (IDS) Filed	0
8	03-22-2007	Case Docketed to Examiner in GAU	0
7	03-19-2007	Transfer Inquiry to GAU	0
6	10-16-2006	IFW TSS Processing by Tech Center Complete	0
5	10-12-2006	Application Dispatched from OIPE	0
4	10-12-2006	Application Is Now Complete	0
3	10-03-2006	Cleared by OIPE CSR	0
2	09-29-2006	IFW Scan & PACR Auto Security Review	0
1	09-22-2006	Initial Exam Team nn	0

Close Window

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NEW YORK NY 10017

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JUL 29 2011

OFFICE OF PETITIONS

In re Application
D'Amato, et al.
Application No. 11/525,346
Filed: September 22, 2006
Attorney Docket No. 9516-502-999

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed July 5, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred fifty-six (156) days to one hundred sixty-seven (167) days.

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

On April 5, 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 one hundred fifty-six (156) days. On July 5, 2011, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred sixty-seven (167) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment on the same date as the issue fee.

The Office initially determined a patent term adjustment of one hundred fifty-six (156) days based on an adjustment for PTO delay of fourteen (14) days and one hundred sixty-six (166) days, both instances pursuant to 37 C.F.R. § 1.703(a)(2), reduced by twenty (20) and (4) days of Applicant delay under 37 CFR 1.704(b).

Applicants argue that the Office should be accorded and additional eleven (11) days of PTO delay pursuant to 37 CFR 1.703(a)(2). Applicants assert that because the Office mailed a corrected Notice of Allowance on April 5, 2011, after a first Notice of Allowance had been mailed on March 25, 2011, the clock should not have stopped under 37 CFR 1.703(a)(2) on March 25, 2011, but instead should have stopped on April 25, 2011. Applicants' argument has been considered, but is not persuasive.

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 here.

Pursuant to 35 U.S.C. § 154(b)(1)(A)(i)(ii), patentees are entitled to day-to-day adjustment if the USPTO does not respond to a reply under section 132 , within 4 months after the date on which the reply was filed. The record of the instant application indisputably indicates that the USPTO did respond with the mailing of a Notice of Allowance on March 25, 2011. The fact that the Office mailed a corrected Notice of Allowance eleven days later does not negate the fact that the Office responded within the meaning of 35 U.S.C. § 154(b)(1)(A)(ii) and 37 CFR 1.703(a)(2) on March 25, 2011. Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term adjustment, the Notice of Allowance mailed on March 25, 2011 was properly used to determine whether the USPTO delayed the issuance of the instant application by responding to a reply under section 132 within 4 months after the date on which the reply was filed. *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 Fed. Reg. 54366 (Sept. 18, 2000) (final rule).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred fifty-six (156)** days (180 (14+166) days of PTO delay reduced by 24 (20+4) days of applicant delay).

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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INTERNATIONAL AUTOMOTIVE COMPONENTS GROUP, LLC
c/o MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA, FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

MAILED

FEB 04 2011

OFFICE OF PETITIONS

In re Application of :
Glenn A. Cowelchuk, et. al. :
Application No. 11/525,444 : DECISION ON PETITION
Filed: September 22, 2006 :
Attorney Docket No. 1-28174 :

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

The application became abandoned for failure to timely file a reply to the final Office action mailed April 26, 2010.

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

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the $540 fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center Art Unit 1742 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the above application.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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18 BROOKLAKE ROAD
FLORHAM PARK NJ 07932

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NOV 2 2 2010

OFFICE OF PETITIONS

In re Application of :

Hollo, Mark G. et al. :
Application No. 11/525,489 : DECISION ON PETITION
Filed: September 23, 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 November 01, 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

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

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MAR 09 2012

OFFICE OF PETITIONS

In re Application of	:	
Hong LI, et al	:	
Application No. 11/525,491	:	DECISION ON PETITION
Filed: September 21, 2006	:	TO WITHDRAW
Attorney Docket No. MEDIV2080-1	:	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 February 14, 2012.

The request is **NOT APPROVED.**

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

Accordingly, since the change of correspondence address appears to be that of a new practitioner or law firm who has not filed a proper power of attorney in the Office, the Request to Withdraw filed February 14, 2012, cannot be approved.

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

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HONG LI ET AL.
C/O MARK EKSE, HAGEN WILKA
& ARCHER LLP
600 S MAIN AVENUE, SUITE 102
SIOUX FALLS SD 57104

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APR 16 2012

OFFICE OF PETITIONS

In re Application of :
LI, et al :
Application No. 11/525,491 : DECISION ON PETITION
Filed: September 21, 2006 : TO WITHDRAW
Attorney Docket No. MEDIV2080-1 : 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 March 29, 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 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 Lisa Haile on behalf of the attorneys of record associated with Customer No. 28213.

The attorneys of record associated with Customer No. 28213 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MEDIVAS, LLC
P.O. BOX 33419
SAN DIEGO CA 92163

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/525,491	09/21/2006	Hong Li	MEDIV2080-1

CONFIRMATION NO. 9347

POWER OF ATTORNEY NOTICE

28213
DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

OC000000053729628

Date Mailed: 04/16/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2012.

- 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.

/dcgoodwyn/

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

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SUITE 1600
PORTLAND OR 97204

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OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Jain et al. :
Application No. 11/525,514 : DECISION ON PETITION
Filed: September 22, 2006 TO WITHDRAW FROM RECORD
Attorney Docket No. 2847-71886-03 :
:

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 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Stacey C. Slater on behalf of all attorneys of record who are associated with Customer Number 24197.

All attorneys/agents associated with the Customer Number 24197 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor at the address indicated below.

Currently, there is an outstanding Office action mailed July 19, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Rajsapan Jain
19 Coleman Place, #39
Menlo Park, CA 94025

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/525,515	MITSUHASHI, MASATO	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL				CROSS REFERENCE(S)							
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)								
435	6	435	91.1	91.2	91.51	287.2					
INTERNATIONAL CLASSIFICATION		536	23.1	24.3	24.33						
C 1 2 Q	1/68										
C 1 2 P	19/34										
C 1 2 M	1/34										
C 0 7 H	21/02										
C 0 7 H	21/04										

(Assistant Examiner) (Date)	/Frank W Lu/ 3/24/2011 (Primary Examiner) (Date)	Total Claims Allowed: 14	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: 11

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
2	2		32		62		92		122		152		182
	~~3~~		33		63		93		123		153		183
3	4		34		64		94		124		154		184
4	5		35		65		95		125		155		185
	~~6~~		36		66		96		126		156		186
	~~7~~		37		67		97		127		157		187
	~~8~~		38		68		98		128		158		188
5	9		39		69		99		129		159		189
	~~10~~		40		70		100		130		160		190
	~~11~~		41		71		101		131		161		191
	~~12~~		42		72		102		132		162		192
	~~13~~		43		73		103		133		163		193
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6	15		45		75		105		135		165		195
7	16		46		76		106		136		166		196
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9	20		50		80		110		140		170		200
10	21		51		81		111		141		171		201
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	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

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AUG 31 2011

OFFICE OF PETITIONS

In re Application of :
Bertrand Muquet : ON PETITION
Application No. 11/525,531 :
Filed: September 22, 2006 :
Atty. Docket No.: 2558-001-03

This is a decision on 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 respond in a timely manner to the Notice of Allowability mailed January 19, 2011 (Notice) and re-mailed March 8, 2011, which set a period for reply of three (3) months. The application became abandoned June 9, 2011. A Notice of Abandonment was mailed June 22, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Notice mailed January 19, 2011, and payment of issue and publication fees in accordance with the Notice, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

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

The application will be referred to Office of Data Management for further processing.

Anthony Knight
Director
Office of Petitions

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Craig Webb :
Application No. 11/525,560 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. ISQCW013 :

This is a decision on the petition, filed August 14, 2007, 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 reply to the Notice to File Corrected Application Papers (Notice) mailed October 12, 2006, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 13, 2007.

Petitioner states that a timely reply was mailed via certificate of mailing on October 19, 2006, which included the following papers: a transmittal letter, a brief description of the drawing figures and 20 sheets of drawings. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated October 19, 2006, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of October 12, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on August 14, 2007.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Patent Application Processing at their hotline 571-272-4000.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

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

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of :
Xia et al. :
Application No. 11/525573 : ON APPLICATION FOR
Filed: 09/22/2006 : PATENT TERM ADJUSTMENT
Atty Docket No. :
PRD-2164-USNP :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE ALLOWANCE," filed on August 16, 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 412 days to at least 867 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue the patent.

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

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

can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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).

---

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID I. ROCHE
BAKER & MCKENZIE LLP
130 EAST RANDOLPH DRIVE
CHICAGO IL 60601

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Leif Kare Hindersland	:	
Application No. 11/525,591	:	ON PETITION
Filed: September 22, 2006	:	
Attorney Docket No. BER-105-US	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 14, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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 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) 272-2991.

This application is being referred to Technology Center AU 3724 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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DEC 09 2010

OFFICE OF PETITIONS

NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD CA 94035-1000

In re Application of :
David A. Maluf :
Application No. 11/525,600 : ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. ARC-15578-2

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 10, 2010.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 7, 2010. This Notice set a statutory period for reply of three months. No issue fee having been received, the application became abandoned on September 8, 2010. The Office mailed a Notice of Abandonment on September 22, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,718,118 :
Issue Date: May 18, 2010 :
Application No. 11/525,691 : DECISION ON PETITION
Filed: September 22, 2006 :
Attorney Docket No. D426.312-0001 :

This is a decision on the petition, filed, November 1, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee names are Dead Sea Magnesium LTD and Volkswagen AG. The assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Dead Sea Magnesium LTD and Volkswagen AG were the assignees of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

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

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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.
11/525,758	09/22/2006	Edward K.Y. Jung	0704A-004-002-C00001	1658

44765 7590 05/31/2011

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

EXAMINER	
BORIN, MICHAEL L	

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
05/31/2011	PAPER

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

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

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MAY 3 1 2011

Elizabeth L. Schubert
The Invention Science Fund
CLARENCE T. TEGREENE
11235 SE 6th Street
BELLEVUE WA 98004

In re Application of	:
Jung	:Decision on Petition
Serial No.:11/525,758	:
Filed: 22 September 2006	:
Attorney Docket No.:0704A-004-002-C0001	:

This letter is in response to the Petition filed under 37 C.F.R. 1.144 to request reconsideration of the restriction requirement mailed 28 January 2008.

BACKGROUND AND DISCUSSION

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

On 12 May 2011, the examiner prepared an interview summary in which the examiner explained that the restriction requirement was being vacated in view of a new election of species requirement being prepared. It is noted that applicant's representative requested during this interview that the petition not be decided in light of the new requirement.

DECISION

Accordingly, the petition under 37 CFR 1.144 is **DISMISSED**.

Applicants remain under obligation to respond in a timely manner to the restriction requirement mailed 13 May 2011.

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.

Jacqueline Stone
Director, Technology Center 1600

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Bell & Manning, LLC
122 E. Olin Avenue, Suite 290
Madison WI 53713

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Denes, et al. :
Application No. 11/525,773 : ON APPLICATION FOR
Filed: September 22, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 032026-0998 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed July 1, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand eighty-three (1083) days, not eight hundred eighty-nine (889) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. *See* 37 CFR § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, 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 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 18, 2011

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 11525861 Patent No.: 7637594

CofC mailroom date: Jan 17, 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.

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

Comments:

Stephen MEIER
SPE 2853

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/525,874	09/25/2006	Hiroyuki Kiso	380-50	1874

23117 7590 11/03/2011

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
COONEY, JOHN M	
ART UNIT	PAPER NUMBER
1765	

MAIL DATE	DELIVERY MODE
11/03/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Mailed: 11/3/11

In re application of	:	
Kiso et al.	:	DECISION ON
Serial No. 11/525,874	:	PETITION
Filed: September 25, 2006	:	

For: **METHOD FOR PRODUCING A RIGID POLYURETHANE FOAM**

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on November 22, 2010 to withdraw the Finality of the Office Action mailed June 25, 2010.

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.**

/Yvonne Eyler/
Director, Technology Center 1700
Chemical and Materials Engineering

Arthur R. Crawford
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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MODIANO & ASSOCIATI
Via Meravigli, 16
MILAN 20123 IT ITALY

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Patent No. 7,871,059 :
Issue Date: January 18, 2001 :
Application No. 11/525,962 : NOTICE
Filed: September 25, 2006 :
Attorney Docket No. 42498/AJ/CD :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 10, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. 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.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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DEC 08 2010

OFFICE OF PETITIONS

In re Application of :
Michael A. Julier :
Application No. 11/525,981 : DECISION ON PETITION
Filed: September 22, 2006 :
Attorney Docket No. P24875 :

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 15, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 16, 2010.

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

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

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

This application is being referred to Technology Center AU 2181 for appropriate action by the Examiner in the normal course of business on the reply received October 14, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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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. 11/526,062 : DECISION ON PETITION
Filed: September 22, 2006 : TO WITHDRAW
Attorney Docket No. QQ1-0187US : 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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APR 11 2011

OFFICE OF PETITIONS

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

In re Application of
Edward K.Y. Jung, et. al.
Application No. 11/526,089
Filed: September 22, 2006
Attorney Docket No. QQ1-0138US

DECISION ON PETITION
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed January 27, 2011.

The request is **MOOT**.

A review of the file record indicates that any previous power of attorney was revoked on January 31, 2011. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is unnecessary.

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

This application file is being referred to Technology Center 3700 for further processing, based on the response filed March 24, 2011.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
601 W Riverside
Suite 1400
Spokane, WA 99201

OK TO ENTER: /K.C./

DOCKET NO.: RTS-0242US.P2 **PATENT**
Patent No.: 7,622,455

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,622,455 **Issue Date: 11/24/2009**

Application No.: 11/526,134 **First Named Inventor: C. Frank Bennett, et al.**

Title: METHODS FOR SLOWING FAMILIAL ALS DISEASE PROGRESSION

Certificate of Corrections Branch
Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER 37 CFR § 1.322

Dear Director:

Please consider the following remarks in support of the enclosed Certificate of Correction.

☒ **Remarks** begin on page 2 of this paper.

OK TO ENTER: /K.C./

DOCKET NO.: RTS-0242US.P2 **PATENT**
Patent No.: 7,622,455

REMARKS

Assignee recently uncovered an error with the above referenced patent. An amendment to the sequence listing was filed September 4, 2008 to include SEQ ID NO: 3. The Patent as published November 24, 2009 does not include SEQ ID NO: 3. Assignee is respectfully requesting that the Director authorize entry of this enclosed Certificate of Correction. The correction does not involve such changes in the patent as would constitute new matter.

FEES

It is believed that no fees are due with the filing of this request. However, if a fee is due, the Commissioner is hereby authorized to charge the appropriate amount to the Deposit Account Number 50-0252 referencing docket RTS-0242US.P2.

CONCLUSIONS

It is believed that a proper showing has been provided to support the request under 37 CFR § 1.322. In the event any matters remain to be resolved in light of this communication, the Director is invited to call the undersigned.

Respectfully submitted,

Date: 11/21/2011

Julie A. Hopper
Registration No. 50,869

Isis Pharmaceuticals
2855 Gazelle Court
Carlsbad, CA 92010
Phone: 760-603-2794
Facsimile: 760-603-3820

OK TO ENTER: /K.C./

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,622,455

APPLICATION NO.: 11/526,134

ISSUE DATE : 11/24/2009

INVENTOR(S) : C. Frank Bennett and Susan M. Freier

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:

1) At the end of the sequence listing, insert the following:

<210> 3
<211> 20
<212> DNA
<213> Artificial Sequence

<220>
<223> Synthetic Antisense Oligonucleotide

<400> 3
gtcgcccttc agcacgcaca 20

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Isis Pharmaceuticals, Inc.
2855 Gazelle Court
Carlsbad, CA 92010

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03-02-12

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/526134 Patent No.: 7622455

CofC mailroom date: 11-21-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE **Art Unit** /Kimberly Chong/ Primary Examiner AU1635

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Julie Hopper
Isis Pharmaceuticals, Inc.
1896 Rutherford Road
Carlsbad, CA 92009

In re Patent No. 7,622,455
Issue Date: November 24, 2009
Appl. No: 11/526,134
Filed: December 17, 2010
For: Correction of Inventorship

This is a decision on the petition filed December 17, 2010, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

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

/Heather Calamita/

Heather Calamita
Supervisory Patent Examiner Art Unit 1635
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE WA 98004

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, et al :
Application No. 11/526,144 : DECISION ON PETITION
Filed: September 22, 2006 : TO WITHDRAW
Attorney Docket No. 0306-002-003-CIP003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 26, 2011.

The request is **NOT APPROVED**.

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

A review of the file record indicates that Lewis C. Lee and the attorneys associated with Customer Number 49651 do not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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.

Further, the request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

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

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

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

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

LEWIS C. LEE
601 W RIVERSIDE, SUITE 1400
SPOKANE, WA 99201

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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MOUNDS VIEW FACILITY SOUTH
8200 CORAL SEA STREET N.E.
MOUNDS VIEW MN 55112

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert J. LAWRENCE et al.	:	
Application No. 11/526,150	:	DECISION ON PETITION
Filed: September 22, 2006	:	
Attorney Docket No. P-22700.01	:	

This is a decision on the petition, filed March 24, 2011 and the supplemental petition filed March 28, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed January 12, 2010, which set a three (3) month shortened statutory period for reply. The application became abandoned on April 13, 2010.

Petitioner asserts that the final Office action dated January 12, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

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

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 Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 3746 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page
Petitions Examiner
Office of Petitions

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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. 11/526,201 : DECISION ON PETITION
Filed: September 22, 2006 : TO WITHDRAW
Attorney Docket No. QQ1-0049US : 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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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. 11/526,213	:	DECISION ON PETITION
Filed: September 22, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0186US	:	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110720

DATE : July 22, 2011

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction on Patent No.: 7297646

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Jerry Lorengo/ **Art Unit** 1731

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of Irving :
Application No. 11/526,335 : On Application For
Filing Date: September 25, 2006 : Patent Term Adjustment
Attorney Docket No. 17832US01 :

This is in response to the application for patent term adjustment filed July 29, 2010. Applicant submits the correct patent term adjustment to be indicated on the patent is one thousand one hundred fifty (1050) days, not eight hundred thirty-four (834) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the

patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No. _____

DATE : 10/07/10

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl No : 11526806 Patent No.: 7653529

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

/David R. Hudspeth/ 2626
SPE Art Unit

571 270 4 8 7 6

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/29/2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/526602 Patent No.: 7881699 B2

CofC mailroom date: 6/24/2011

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: _____

_____

_____

_____

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_____ 2617
SPE **Art Unit**

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Hidehiko Kawakami et al :
Application No. 11/526,617 : ON PETITION
Filed: September 26, 2006 :
Attorney Docket No. 01-1276

This is a decision on the petition, filed September 20, 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 16, 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 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of :
Shoji :
Application No. 11/526,683 : DECISION ON PETITION
Filed: September 26, 2006 :
Atty. Dkt. No.: 128643 :

This is a decision on the petition filed October 22, 2010, requesting under 37 CFR 1.182 that the terminal disclaimer filed July 6, 2010 be withdrawn and nullified. Receipt of the required $400.00 petition fee is acknowledged.

The examiner of record advises that the terminal disclaimer in question may be withdrawn.

In view thereof, the petition for withdrawal and nullification of terminal disclaimer is **GRANTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

This application is being forwarded to the Office of Data Management for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,564,272 :
Issue Date: 21 July, 2009 :
Application No. 11/526,693 : ON PETITION
Filed: 26 September, 2006 :
Attorney Docket No. SEC.1743 :

This is a decision on the petition filed on 29 January, 2010, under 37 C.F.R. §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment on 26 September, 2006, and the location of recordation as Reel/Frame 018346/0450.

Petitioner requests issuance of a certificate of correction the identification of the Assignee(s) to "**SAMSUNG ELECTRONICS CO., LTD. (Gyeonggi, Republic of Korea)**" of the substance/form of that submitted therewith.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Patent No. 7,564,272
Application No. 11/526,693

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/526,765	09/26/2006	Jun Zhang	38184.00900CIP	2414

38647 7590 04/27/2011

MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON, DC 20006

EXAMINER	
BROWN, COURTNEY A	

ART UNIT	PAPER NUMBER
1617	

MAIL DATE	DELIVERY MODE
04/27/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 2 7 2011

MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON DC 20006

In re Application of:
Zhang et al.
Serial No.: 11/526,765
Filed: September 26, 2006
Attorney Docket No.: **38184.00900CIP**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed April 15, 2011 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that a document containing information subject to a Protective Order submitted to the Patent Office on April 15, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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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. 11/526,886	:	DECISION ON PETITION
Filed: September 20, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0168US	:	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
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MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Application of :
Werwath et al. :
Application No. 11/526,992 : ON PETIION FOR PATENT
Filed: September 26, 2006 : TERM ADJUSTMENT
Atty Docket No. 05-786-A :

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," April 27, 2010. Applicants request that the determination of patent term adjustment be reviewed for accuracy in light of the filing of a Request for Continued Examination (RCE) on November 3, 2009. Applicants assert they are entitled to only 81 days of patent term adjustment, rather than 172 days, as calculated by the Office as of the mailing of the Determination of Patent Term Adjustment under 35 U.S.C. 154(b)on February 3, 2010.

The request for recalculation of the determination of patent term adjustment (PTA) is **dismissed**.

On February 3, 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 172 days. On April 27, 2010, applicants submitted the instant comment in which applicants request the patent term adjustment be reduced for the amount of days between the date an Appeal Brief was due, August 4, 2009, to the date a RCE was filed, November 3, 2009, to account for Applicant delay and for the extension of time requested by Applicant.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for Applicant delay was correct. Ordinarily there are no reductions during the appeal period. Reductions begin again ***after*** the Office has to act or applicant withdraws the appeal by filing a RCE. In this instance, the filing of the RCE

occurred when no time period for action was running against Applicants

In view thereof, the revised Patent Term Adjustment remains one hundred seventy-two (172) days.

For future reference, applicants are advised that, pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), the period of B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The 152 day period from the filing of the Notice of Appeal, June 4, 2009, to the day before the RCE was filed, November 2, 2009, will not be included in the B-Delay.

The Office acknowledges receipt of the required $200.00 fee under 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 any future issued patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LERNER DAVID LITTENBERG KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of :
Michael J. FASSL, *et al.* :
Application No. 11/527,065 :
Filed: September 26, 2006 :
Attorney Docket No. **FASSL 3.0-001** :

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed [date of Request].

The request is **GRANTED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Grave/
Petitions Examiner, Office of Petitions

cc: **MATHEWS SHEPHERD MCKAY & BRUNEAU, PA**
29 THANET ROAD, SUITE 201
PRINCETON, NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATHEWS SHEPHERD MCKAY & BRUNEAU, PA
29 THANET ROAD, SUITE 201
PRINCETON, NJ 08540

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of :
Michael J. FASSL, et *al.* :
Application No. 11/527,065 : DECISION ON PETITION
Filed: September 26, 2006 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **FASSL 3.0-001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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, January 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 25, 2008.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/05/12

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11527086 Patent No.: 7787852

CofC mailroom date: 03/19/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the 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

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Nay A. Maung/ — **SPE**

2618 — **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/527,172	26 September, 2006	SU, CHANGZHENG	13674-164

		EXAMINER	
Huawei/BHGL P.O. Box 10395 Chicago, IL 60610		THANHNGA B. TRUONG	
		ART UNIT	PAPER
		2438	20120402

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This communication letter is to correct claim 16 that was requested by the applicant for Certificate of Correction filed on September 20, 2010.

/THANHNGA B TRUONG/
Primary Examiner, Art Unit 2438

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/25/2010

TO SPE OF : ART UNIT 2438 Arani Taghi T (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/527172 Patent No.: 7779266

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Taghi T Arani/ — **SPE**

SPE AU2438 — **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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/527,259	09/26/2006	Robert P. Morris	I406/US	5057

52354 7590 09/13/2011

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
FORMAN, JAMES Q	

ART UNIT	PAPER NUMBER
2453	

MAIL DATE	DELIVERY MODE
09/13/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SEP 13 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of: MORRIS
Appl. No.: 11/527259
Filed: September 26, 2006
For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR ENABLING DYNAMIC CONTENT IN A MARKUP-LANGUAGE-BASED PAGE USING A DYNAMIC MARKUP LANGUAGE ELEMENT**

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on August 24, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on August 24, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (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.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Chau Nguyen whose telephone number is (571) 272-3126.

/Chau Nguyen/

Chau Nguyen
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/527,294	09/25/2006	Krishnendu Chaudhury	GGL-846-00-US	4925

82134 7590 08/19/2010

Google Inc.
c/o Park, Vaughan & Fleming LLP
2820 Fifth Street
Davis, CA 95618

EXAMINER	
COUSO, YON JUNG	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
08/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Google Inc.
c/o Park, Vaughan & Fleming LLP
2820 Fifth Street
Davis CA 95618

MAIL

AUG 19 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Chaudhury, Krishnendu *et al.* :
Serial No.: 11/527, 294 : DECISION ON PETITION
Filed: September 25, 2006 : *ACCEPTANCE OF COLOR DRAWINGS*
For: **METHOD AND APPARATUS FOR ENHANCING OBJECT BOUNDARY PRECISION IN AN IMAGE** :

This is a decision on the petition under 37 CFR §1.84(a)(2) filed July 27, 2010 and September 25, 2006, requesting the acceptance of color drawings.

The petition requests that the color drawings identified in Figures 5, 6A, 6B and 6C 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**.

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON OH 44311

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Ladanyi, Donald J. :
Application No. 11/527,346 :
Filed: September 25, 2006 :
Attorney Docket No. 22750.43145 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 8, 2010.

The request is **DISMISSED**.

A review of the file record indicates that the attorneys/agents associated with Customer Number 26781: (1) were never given power of attorney in this patent application; but (2) have been employed or otherwise engaged in the proceedings in this patent application. The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner was never given power of attorney but is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation.

The change of correspondence address as listed in the Request to Withdraw cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will continue to mail all future correspondence solely to the address of record until otherwise properly notified by the applicant.

There is an outstanding Office action, mailed April 6, 2010, which requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: DONALD J. LADANYI
24582 CHAPPARAL
WESTLAKE, OH 44145

UNITED STATES 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.

KING & SPALDING LLP (SAIC CUSTOMER NUMBER)
ATTN: DAWN-MARIE BEY
1700 PENNSYLVANIA AVE, NW
SUITE 200
WASHINGTON DC 20006

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of :
Green et al. :
Application No. 11/527,415 : DECISION ON PETITION
Filed: September 27, 2006 : UNDER 37 C.F.R. § 1.181
Attorney Docket Number: :
SAIC0029-CON1-DIV1 :
Title: LIGHT-EMITTING PANEL AND :
A METHOD FOR MAKING :

This is a decision on the petition filed May 13, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

The Office mailed a final Office action on May 13, 2008, which set an extendable three-month period for response. An after-final amendment was received on October 14, 2008, along with a two-month extension of time so as to make the submission timely (it is noted that October 13, 2008 fell on a federal holiday). On November 13, 2008, the Office mailed an advisory action in response to the after-final amendment. On this same date, Applicant filed a notice of appeal and a three-month extension of time, so as to make timely the notice of appeal.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal. No Appeal Brief was received and no additional extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 14, 2009. A Notice of Abandonment

was mailed on February 20, 2009, which erroneously indicates that no response was received to the final office action.

The relevant portions of the C.F.R.

37 C.F.R. § 1.181(f) set forth, *in toto*:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

37 C.F.R. §§ 41.37(a) and (b) set forth, *in toto*:

> (a)
> (1) Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.
> (2) The brief must be accompanied by the fee set forth in § 41.20(b)(2)
> (b) On failure to file the brief, accompanied by the requisite fee, within the period specified in paragraph (a) of this section, the appeal will stand dismissed.

Analysis

This petition was filed more than two months after the mailing of the notice of abandonment. As such, the petition under 37 C.F.R. § 1.181(a) is **DISMISSED** as untimely, pursuant to 37 C.F.R. § 1.181(f).

Assuming arguendo that this petition was timely filed, it is noted that the record does not support a finding that the holding of abandonment should be withdrawn. A discussion follows.

Petitioner argues "[t]he notice of Abandonment was erroneously issued during the time period for filing of the Appeal Brief,"[1] presumably based on the erroneous indication contained in the notice of abandonment that the application went abandoned for failure to respond to the Final Office action.

As developed above, this application went abandoned for failure to file an Appeal Brief within two months of the filing of the Notice of Appeal. The notice of appeal was filed on November 13, 2008, and therefore the Appeal Brief was due on January 13, 2009. Applicant was in a position to purchase up to a five-month extension of time, which brings the maximum extendable period for submission of the Appeal Brief out to June 13, 2009. However, the record does not support a finding that an Appeal

1 Petition, page 1.

Brief was filed. It follows that the application went abandoned by operation of law for failure to submit the Appeal Brief.

It is noted that this petition was filed subsequent to the due date of the Appeal Brief but prior to the expiration of the maximum extendable period for submitting the same. However, pursuant to 37 C.F.R. § 1.181(f), the "mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings." It follows that the filing of this petition did not stop the clock, and the maximum extendable period for the submission of the Appeal Brief expired on June 13, 2009.

Conclusion

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner should consider submitting a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b).

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300: please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[6]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 29, 2011

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 11527606 Patent No.: 7708850

CofC mailroom date: Jan. 7, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☑ **Denied** — State the reasons for denial below.

Comments: Applicant is changing the name of the inventor to that of a different name than that was in the original Declaration for the application. Applicant would have to file a request to change inventorship in order to make the requested name change, and such cannot be done by a certificate of correction.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PHILIP TUCKER

1745

SPE Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: April 5, 2011

Patent No. : 7,708,850 B2
Application No. : 11/527,606
Issued : May 4, 2010
Inventor : Watanabe, et al.
Title : **MANUFACTURING METHOD OF LAMINATED METAL PLATE AND LAMINATED METAL PLATE MANUFACTURED BY THE METHOD**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction, for the above-identified patent under the provision of Rule 1.322 or R 1.323.

Respecting the alleged error, applicant is changing the name of the inventor to that of a different name than that was in the original Declaration for the application. Applicant would have to file a request to change inventorship in order to make the requested name change, and such cannot be done by a certificate of correction. Therefore no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 the Code of Federal Regulation (C.F.R.) R 1.322 R 1.323.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Valerie Jackson
Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3423

Greigg & Greigg, PLLC
1423 Powhatan Street, Unit One
Alexandria, Virginia 22314

vj/MFD

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

FEB 15 2011

OFFICE OF PETITIONS

DEPARTMENT OF THE NAVY
OFFICE OF COUNSEL
3824 STRAUSS AVE, SUITE 103
INDIAN HEAD MD 20640-5152

In re Application of :
KELLEY, et al :
Application No. 11/527,657 : ON PETITION
Filed: September 15, 2006 :
Attorney Docket No. 83,693 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 2, 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 September 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 $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

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 December 16, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-1114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1731 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
2050 Main Street, Suite 1100
IRVINE CA 92614

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of :
Daniel H. Kim et al. :
Application No. 11/527,804 : DECISION ON PETITION
Filed: September 26, 2006 :
Attorney Docket No. 145912400201 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, March 18, 2010, which set a shortened statutory period for reply of three (3) months. A two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 9, 2010. A Notice of Abandonment was mailed on September 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 Notice of Appeal, with the required fee of $270, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the Notice of Appeal is accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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 $310 extension of time fee submitted with the petition on September 9, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Board of Patent Appeals and Interferences for appropriate action in the normal course of business for processing of the reply received September 9, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: E. Thomas Wheelock
P.O. Box 61168
Palo Alto, CA 94306

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HUSKY INJECTION MOLDING SYSTEMS LTD.
CO/AMC INTELLECTUAL PROPERTY GRP
500 QUEEN STREET SOUTH
BOLTON ON L7E 5S5 CA CANADA

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Mortazavi : DECISION ON PETITION
Application No. 11/527,813 :
Filed: September 27, 2006 :
Atty. Dkt. No.: H-1015-0-US :

This decision is in response to the petition under 37 CFR 1.137(b), filed August 25, 2010.

The petition is **GRANTED**.

The application became abandoned September 27, 2009 for failure to timely submit a proper reply to the non-final Office action mailed June 26, 2009. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was filed. Notice of Abandonment was mailed January 25, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 1794 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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	11527861
Filing Date	27-Sep-2006
First Named Inventor	Robert Scribner
Art Unit	3734
Examiner Name	KEVIN TRUONG
Attorney Docket Number	41914.349 / P0032010.04
Title	SYSTEMS AND METHODS FOR FORMING A CAVITY IN CANCELLOUS BONE

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required ◯ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ◯ Drawing corrections and/ or other deficiencies are attached. ☒ 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	/John M Kubodera, Reg. #45984/
Name	John M Kubodera
Registration Number	45984

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 : August 31,2011

In re Application of :

Robert Scribner

Application No : 11527861

Filed : 27-Sep-2006

Attorney Docket No : 41914.349 / P0032010.04

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed August 31,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of :
Shunji Ota :
Application No. 11/527,879 : DECISION DISMISSING PETITION
Filed: September 27, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 17249/007001 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition did not get to the proper deciding official in time to process the petition prior to the patent issue. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be credit to petitioner's credit card.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

RAM Fee History Query
Revenue Accounting and Management

Name/Number: 11527879 Total Records Found: 12
Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
12/15/2010	00000002	4	1801	-$810.00	12/10/2010	OP
12/15/2010	00000001	4	1464	-$130.00	12/10/2010	OP
12/13/2010	00004936	4	1801	$810.00	12/10/2010	CC
12/13/2010	00004935	4	1464	$130.00	12/10/2010	CC
10/13/2010	00016267	4	1504	$300.00	10/13/2010	CC
10/13/2010	00016266	4	1501	$1,510.00	10/13/2010	CC
10/07/2010	00007328	4	1806	$180.00	10/06/2010	CC
03/03/2010	00008570	4	1201	$220.00	03/02/2010	CC
09/29/2006	00000011	1	8021	$40.00	09/27/2006	CC
09/29/2006	00000010	1	1311	$200.00	09/27/2006	CC
09/29/2006	00000009	1	1111	$500.00	09/27/2006	CC
09/29/2006	00000008	1	1011	$300.00	09/27/2006	CC

Adjustment date: 12/15/2010 LDIEP1
12/13/2010 INTEFSW 00002953 11527879
01 FC:1464 -130.00 OP
02 FC:1801 -810.00 OP

Refund Ref:
12/15/2010 G030091741

Credit Card Refund Total: $940.00

A□ Exp..: XXXXXXXXXX2039

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 12/14/10

2 Serial/Patent # 11/527,879

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition 1464		12/10/10	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other 1801		12/10/10	$ 810.00

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

The petition was received in the Office of Petition too late. The petition is dismissed as moot.

CREDIT CARD REFUND

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Irvin Dingle TITLE: Paralegal

SIGNATURE: /Irvin Dingle/ PHONE: 2-3210

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 12/14/10

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER CO 80202

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Steven M. Harris, et al. :
Application No. 11/527,926 : DECISION ON PETITION
Filed: September 26, 2006 :
Attorney Docket No. 027787.0103PTUS :

This is a decision on the petition under 37 CFR 1.182, filed, November 18, 2010, to change the name of inventor "Amanda B. Harris" to – Amanda Brooke Cousins --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991. 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 further processing.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/527,926	09/26/2006	3661	1550	027787.0103PTUS	21	3

CONFIRMATION NO. 6259

CORRECTED FILING RECEIPT

24283
PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER, CO 80202

Date Mailed: 12/16/2010

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)

Steven M. Harris, Lafayette, CO;
Amanda B. Cousins, Boulder, CO;

Power of Attorney: The patent practitioners associated with Customer Number 24283

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/16/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/527,926**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

RADAR COLLISON WARNING SYSTEM FOR ROOFTOP MOUNTED CARGO

Preliminary Class

701

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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1801 CALIFORNIA STREET
SUITE 4900
DENVER CO 80202

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Application of :
Steven M. Harris :
Application No. 11/527,926 : DECISION ON REQUEST FOR REFUND
Filed: September 26, 2006 :
Attorney Docket No. 027787.0103PTUS :

This is a decision on the Request For Refund filed September 23, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "On November 18, 2010 the undersigned filed a Petition By Inventor to Change Name due to marriage. A Petition fee of $130.00 (Group III) was included with the Petition and charged to a credit card. On December 21, 2010 out Deposit Account was charged $400.00 for a Fee Code 1462 (Petitions to the Director not specifically provided for – Group 1) for the above patent application. Therefore, Applicant requests a refund of the Group III Petition fee in the amount of $130.00. ..."

A review of Office finance records show that a petition fee of $130.00 was paid on November 18, 2010. The petition fee required for the petition under 37 CFR 1.182 was $400.00 and not the $130.00 submitted on November 18, 2010. As authorization was provided, the Office charged the petition fee of $400.00 for the petition filed on November 18, 2010.

In view of the above, the petition fee of $130.00 is being credited to petitioner's credit card account as authorized.

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Paula M. Jardieu, et al :
Application No. 11/527,969 : ON PETITION
Filed: September 26, 2006 :
Attorney Docket No.: P0718P2C1D1C3 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 28, 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 a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $810, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1643 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SYNECOR LLC
P.O. BOX 5325
LARKSPUR CA 94977

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Application of :
Michael S. Williams, et al. :
Application No. 11/528,009 : ON PETITION
Filed: September 27, 2006 :
Attorney Docket No. TRX-1000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 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 April 14, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 15, 2010. The Notice of Abandonment was mailed

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 October 19, 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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3731 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **KATHLEEN A. FROST**
1745 COPPERHILL PKWY, SUITE 1
SANTA ROSA, CA 27703

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
2050 Main Street, Suite 1100
IRVINE, CA 92614

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of :
Michael L. Reo, et al. :
Application No. 11/528,099 : DECISION ON PETITION
Filed: September 27, 2006 :
Attorney Docket No.: 14591.4021 :

This is a decision in response to the petition, filed September 6, 2011, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34, the signature of Mr. E. Thomas Wheelock appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Wheelock 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 the petitioner herein; however, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This application was held abandoned for a failure to reply in a timely manner to a final Office action mailed January 28, 2011. A Notice of Abandonment was mailed on August 1, 2011. On September 6, 2011, the present petition was filed. Petitioner argues that the abandonment should be withdrawn, since a timely reply was filed. Petitioner explains that a Request for Continued Examination (RCE), an Amendment and a 3-month petition for extension of time were filed on July 28, 2011. Further, petitioner indicates that "[t]he RCE and Transmittal Form included a Certificate of Mailing under 37 CFR 1.8 specifying July 28, 2011 as the mailing date."

A review of the application file confirms receipt of a RCE, amendment and appropriate petition for extension of time on August 2, 2011, as they are present among the papers contained in the file. It is also noted that the requisite fees have been paid and a proper Certificate of Mailing under 37 CFR 1.8 dated July 28, 2011 was included on the papers. Accordingly, the response is considered a timely reply to the January 28, 2011 Office action.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being referred to Technology Center AU 3775 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 may be directed to the undersigned at (571) 272-3204. Inquiries regarding further prosecution of this application should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: E. THOMAS WHEELOCK
P.O. BOX 61168
PALO ALTO, CA 94306

UNITED STATES 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 14, 2012

Cha & Reiter, LLC
17 Arcadian Avenue
Suite 208
Paramus NJ 07652

Re Application of
KIM, CHANGICK. , ET Al
Application: **11/528114** : **DECISION ON PETITION**
Filed: **09/27/2006** : **ACCEPTANCE OF COLOR**
Attorney Docket No: **5020-1-009** : **DRAWINGS**

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) October 4, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 11, 2011

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

In re Application of	:	
Zoltan Kiss	:	**DECISION ON PETITION**
Application No. 11528172	:	
Filed: 09/27/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **340802**	:	***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) September 27, 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 one (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/528,172	09/27/2006	Zoltan Kiss	340802	6268

7590 05/13/2011

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER	
WARE, DEBORAH K	

ART UNIT	PAPER NUMBER
1651	

NOTIFICATION DATE	DELIVERY MODE
05/13/2011	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

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.
11/528,233	09/26/2006	Takaaki Ota	SONY-50V8308	5474

45589 7590 12/21/2011

SONY C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

EXAMINER	
LIAO, JASON G	
ART UNIT	**PAPER NUMBER**
2156	
MAIL DATE	**DELIVERY MODE**
12/21/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SONY c/o Murabito, Hao & Barnes LLP
Two North Market Street
Third Floor
San Jose, CA 95113

In re Application of:
Takaaki OTA
Application No.: 11/528,233
Filed: September 26, 2006
For: PROVIDING A USER ACCESS TO DATA FILES DISTRIBUTED IN A PLURALITY OF DIFFERENT TYPES OF USER DEVICES

DECISION ON PETITION UNDER 37 C.F.R. § 1.8 TO ACCEPT PAPERS AS TIMELY FILED AND UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request filed 07 November 2011 under 37 C.F.R. § 1.8(b) to accept Appeal Brief as timely filed. A Notice of Abandonment was not yet mailed.

The petition is **GRANTED**

37 C.F.R. § 1.8(b) states:

> (b) 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, and the application is held to be abandoned or the proceeding 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 Commissioner 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.

Applicant's submissions of 07 November 2011 meet the applicable criteria. Applicant asserted that an Appeal Brief was filed in a timely manner on 28 September 2011. A copy of the originally submitted Appeal Brief, a copy of the petition for five months extension of time sent 28 September 2011, a Certificate of Mailing signed by Clelia Mayorga dated 28 September 2011 and a Declaration of Clelia Mayorga have been provided.

For the above stated reasons, the request/petition is **GRANTED**. The copy of Appeal Brief filed on 07 November 2011 has been accepted as being filed on 28 September 2011.

Since the Examiner's Answer was mailed on 13 December 2011, the application is being forwarded to the Board of Patent Appeals and Interferences to render a decision.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

/ Vincent N. Trans /
For Jack B. Harvey, Director
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Iseki, et al. :
Application No. 11/528,243 : ON PETITION
Filed: September 28, 2006 :
Attorney Docket No. 7372/88320 :
For: ETHYLENE-ALPHA-OLEFIN
COPOLYMER, RESIN COMPOSITION
CONTAINING THE SAME AND MOLDED
ARTICLE THEREOF

This is a decision on the petition under 37 CFR 1.137(b), filed on May 24, 2010, to revive the above-identified application.

Per petitioners' request, the petition under 37 CFR 1.137(f), filed on May 17, 2010, has been withdrawn.

This application became abandoned for failure to timely respond to the final Office action, mailed November 3, 2009, which set an extendable three month period for reply. No proper extensions of time under 37 CFR 1.136(a) were filed. Accordingly, this application became abandoned on March 4, 2010. A Notice of Abandonment was mailed on May 19, 2010.

Applicants have submitted a RCE and required $810.00 fee and amendment in reply to the November 3, 2009 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 3, 2009 final Office action, and the $1,620.00 petition fee.

The petition is **GRANTED**.

It is noted that petitioners filed two refund requests on May 24, 2010. A review of Office financial records reveals that a $540.00 Notice of Appeal fee and a $1,110.00 three month extension of time were refunded to petitioners' deposit account on accounting date June 23, 2010.

After the mailing of this decision the application will be forwarded to Technology Center A.U. 1796 for consideration of the RCE and amendment filed on May 24, 2010.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application of :
Janning :
Application No. 11/528,280 : ON PETITION
Filed: September 28, 2006 :
Attorney Docket No. J5460.0024/P024-A :
For: HOLIDAY LIGHT STRING DEVICES

This is a decision on the petition, filed March 7, 2011, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the May 31, 2007 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on September 1, 2007. A Notice of Abandonment was mailed on December 11, 2007.

Applicant has submitted an amendment in reply to the May 31, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 31, 2007 non-final Office action, and the $810.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2821 for consideration of the amendment filed on March 7, 2011.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/528,384	09/28/2006	Takefumi Naganuma	297091US8	6918

22850 7590 06/17/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
SHAHEED, KHALID W	

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
06/17/2011	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):

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 :
NAGANUMA, TAKEFUMI, et al :
Application No. 11/528,384 : DECISION ON PETITION
Filed: September 28, 2006 :
For: **INFORMATION PROVIDING SYSTEM AND INFORMATION PROVIDING METHOD** :

This is a decision on the petition, filed May 10, 2010, under 37 CFR 1.181(a)(3) for consideration of a reference included with an Information Disclosure Statement filed December 20, 2010.

A review of the application file reveals that the information disclosure listing submitted on December 20, 2010, has been considered by the examiner. An initialed Form PTO-1449 was mailed June 3, 2011. Attached to this decision is a copy of the initialed Form PTO-1449.

Accordingly, Petitioner's request is **Dismissed as Moot**.

/John Peng/

John Peng
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: Initialed Form PTO-1449

Receipt date: 12/20/2010

11528384 - GAU: 2617

SHEET 1 OF 1

Form PTO 1449 (Modified)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO.	SERIAL NO.
		297091US8	11/528,384
LIST OF REFERENCES CITED BY APPLICANT		APPLICANT	
		Takefumi NAGANUMA, et al.	
		FILING DATE	GROUP
		September 28, 2006	2617

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
/K.S./	AO	TW 1246346	12-21-2005	Taiwan w/English Abstract		X
/K.S./	AP	TW 200304609	10-01-2003	Taiwan w/English Abstract		X
/K.S./	AQ	TW 200503520	01-16-2005	Taiwan w/English Abstract		X
/K.S./	AR	TW 200509001	03-01-2005	Taiwan w/English Abstract		x
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

/K.S./	AW	Taiwanese Office Action issued October 26, 2010, with English translation.
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner /Khalid Shaheed/ Date Considered 05/23/2011

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /K.S./ 05/23/2011

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of :
Shinzo Matsubara :
Application No.: 11/528,428 : ON PETITION
Filed: September 28, 2006 :
Attorney Docket No.: 7906.0082 :

This is a decision on the petition, filed January 24, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 2618 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/05/11

TO SPE OF : ART UNIT: 1613 Attn: KWON YONG (BRIAN-YONG) S (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/528454 Patent No.: 7998464

CofC mailroom date 09/28/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check Claims 22, 26 & 35
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.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

brian-yong s kwon
SPE

1613
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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of :
Thomas Gschwind :
Application No. 11/528,478 : NOTICE
Patent No. 7,912,360 :
Filed: September 26, 2006 :
Attorney Docket No. 240102.406

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, et al :
Application No. 11/528,480 : DECISION ON PETITION
Filed: September 26, 2006 : TO WITHDRAW
Attorney Docket No. QQ1-0195US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED.**

The 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

ZION HADAD
48 HAALMOGIM STREET
RISHON LEZION IL **ISRAEL**

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Zion Hadad :
Application No. 11/528,509 : ON PETITION
Filed: Septembe28, 2006 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed June 12, 2007.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Robert G. Lev appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $555 extension of time fee submitted with the present petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and 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.

Since the address given in the present petition differs from the correspondence address of record, a courtesy copy of this decision is being mailed to the address in the present petition. Thereafter, all future correspondence regarding this application will be mailed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 2619 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Robert G. Lev
Lev Intellectual Property Consulting
4766 Michigan Blvd.
Youngstown, OH 44505

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW Dec-11

IDEATION LAW
2750 RIVERSIDE AVENUE
JACKSONVILLE FL 32205

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of :
Babi et al. :
Application Number: 11/528554 : ON PETITION
Filing Date: 09/28/2006 :
Attorney Docket Number: AURORA-0006US :

This is a decision in response to the petition under 37 CFR 1.137(b) filed on November 21, 2011,[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 21, 2011, for failure to timely reply to the final Office action mailed on January 20, 2011, which set a three (3)-month shortened statutory period for reply. No extension of the time for reply in accordance with 37 CFR 1.136(a) Notice of Abandonment was mailed on September 11, 2011.

Receipt of the Request for Continued Examination and submission under § 1.114 filed on September 15, 2011, are acknowledged.

The application is referred to the Technology Center Art Unit 3693 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] It is noted that the petition fee and reply were filed on September 15, 2011. The present petition, however, was not filed until November 21, 2011.

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: 69993-236285	Patent Number: 7,659,494 B2
Filing Date (or 371(b) or (f) Date): September 28, 2006	Issue Date: February 9, 2010
First Named Inventor: Mikael Lindgren	
Title: LASER TARGET SEEKER DEVICE	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos,* No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Eric J. Franklin/	Date August 4, 2010
Name (Print/Typed) Eric J. Franklin	Registration Number 37,134

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
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Alexandria, Virginia 22313-1450
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 09/03/2010

Applicant	: Mikael Lindgren	: DECISION ON REQUEST FOR
Patent Number	: 7659494	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/528,566	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 10/19/2010

TO SPE OF : ART UNIT 1628

SUBJECT : Request for Certificate of Correction on Patent No.: US 7,625,882

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.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

The request for certificate of correction filed on 10/07/2010 has been approved.

R.S.

SPE /Brandon J. Fetterolf/ Date 10/18/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Thomas Michael Demartini, et al. :
Application No. 11/528,680 :
Filed: September 28, 2006 :
Attorney Docket No. 111325-630200 :

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 Jeffrey L. Costellia on behalf of all attorneys of record who are associated with customer No. 22204. All attorneys/agents associated with the Customer Number 22204 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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 the Notice of Appeal filed October 7, 2010.

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: THOMAS MICHAEL DEMARTINI
6410 GREEN VALLEY CIRCLE, #130
CULVER CITY, CA 90230

cc: CONTENTGUARD HOLDINGS, INC.
222 N. SEPULVEDA BLVD.
SUITE 1400
EL SEGUNDO, CA 90245

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/528,680	09/28/2006	Thomas Michael Demartini	111325-630200

CONFIRMATION NO. 5574

POWER OF ATTORNEY NOTICE

22204
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Date Mailed: 10/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/09/2010.

- 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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JAN 30 2012

OFFICE OF PETITIONS

SCHWEGMAN LUNDBERG & WOESSNER P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Sandip Tiwari et al :
Application No. 11/528,712 : DECISION ON PETITION
Filed: September 27, 2006 : TO WITHDRAW
Attorney Docket No. 1153.122US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 27, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK NY 10036

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application:
Richard V. Jessop
Application No. 11/528,756
Filed: September 28, 2006
Attorney Docket No. P-9747-US

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 9, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This 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
Petitions Examiner
Office of Petitions

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

MAILED
JUL 21 2011
OFFICE OF PETITIONS

In re Application of :
Willem P.C. Stemmer, et al. :
Application No. 11/528,927 : DECISION ON PETITION
Filed: September 27, 2006 :
Attorney Docket No. 28768-18976 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed August 31, 2010. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply, (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 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 1639 for appropriate action by the Examiner in the normal course of business on the reply received July 1, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-14-11

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 11528954 Patent No.: 7931253

CofC mailroom date: 6-25-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 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.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:_____

/Stephen Hepperle/_____ 3753__
SPE **Art Unit**

APPROVED: /C.A.N./

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7881749

APPLICATION NO. : 11/528,957

ISSUE DATE : Feb. 1, 2011

INVENTOR(S) : Paul E. Hiles

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 12, line 24, in Claim 7, delete "motion"" and insert - - motion - -, therefor.

In column 12, line 50, in Claim 9, delete "claim 5," and insert - - claim 8, - -, therefor.

In column 12, line 54, in Claim 10, delete "claim 5," and insert - - claim 8, - -, therefor.

In column 12, line 57, in Claim 11, delete "claim 5," and insert - - claim 8, - -, therefor.

In column 12, line 63, in Claim 12, delete "claim 5," and insert - - claim 8, - -, therefor.

In column 13, line 3, in Claim 13, delete "claim 5," and insert - - claim 8, - -, therefor.

In column 14, line 5, in Claim 14, after "processor" delete "c".

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Hewlett-Packard Company
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80528

This collection of information is required by 37 CFR 1.322, and 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 Patent, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110419

DATE : April 19, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7881749

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:

Approved for the Certification of Correction filed on 4/15/2011.

/LESTER KINCAID/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of :
Kludt et al. :
Application No. 11/529,065 : ON PETITION
Filed: September 28, 2006 :
Attorney Docket No. 339.070US1 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 17, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed April 28, 2009, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 29, 2009. A Notice of Abandonment was mailed November 9, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner states in the instant application became unavoidably abandoned due to the actions of the previous counsel, Hugh Jaeger. Specifically, petitioner states that Mr. Jaeger failed to transfer application and assignment papers to the new counsel.

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 case or diligence than is generally used and observed by prudent and careful men in to their most important business. It permits them in the exercise of this care to

> reply on the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees and such other means instrumentalities 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 to be said to be unavoidable, all other conditions of promptness in its rectification being present.'

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 Windklet 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, 913 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).

The record indicates that Hugh Jaeger was responsible for prosecution of the above-identified application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from Mr. Jaeger explaining why action was not timely taken to prevent the above-identified application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to Mr. Jaeger, by certified or registered mail (return receipt requested) indicating that the Patent and Trademark Office is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the Patent and Trademark Office is requesting that Mr. Jaeger provide within a specified period (e.g., one month) a statement setting forth why appropriate action was not timely taken to prevent abandonment of the above-identified application from becoming abandoned. Petitioner is advised that in the event that Mr. Jaeger does not provide such a statement, petitioner should submit a copy of such letter and the return receipt.

The USPTO must rely on the actions or inactions of duly authorized and voluntarilya chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987); California, 921 F.Supp. 1219, 1259 (D.Del. 1995). Specifically, petitioner's delay caused by the mistakes or omissions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. See Haines v. Quigg, *supra*; 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). It follows that such is not unavoidable delay within the meaning of 35 USC 41(c) and 37 CFR 1.378(b). Ray, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995).

Petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving disputes between applicants and their representatives. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

While the showing of the record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of the unintentional delay.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR

1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 04 2011

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Kludt et al.	:	
Application No. 11/529,065	:	ON PETITION
Filed: September 28, 2006	:	
Attorney Docket No. 339.070US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Preliminary Amendment and Response to Restriction Requirement (previously submitted on August 17, 2010, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 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

September 19, 2011

KEVIN L. RUSSELL
CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP
1600 ODSTOWER
601 SW SECOND AVENUE
PORTLAND OR 97204

Re Application of
SPEIGLE, JON M., ET Al
Application: **11/529088** : **DECISION ON PETITION**
Filed: **09/28/2006** : **ACCEPTANCE OF COLOR**
Attorney Docket No: **SLA1365 (7146.0446)** : **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) September 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 containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DONN K. HARMS
PATENT & TRADEMARK LAW CENTER
SUITE 100
12702 VIA CORTINA
DEL MAR CA 92014

In re Application of
WELCH, RONALD E.
Application No.: 11/529,094
Filing or 371(c) Date: September 28, 2006
Attorney Docket Number: 3691-PAT

OCT 14 2010

DECISION ON
PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on August 18, 2010.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed April 14, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on July 30, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on July 13, 2010. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn, but insufficient funds to copy the advance copy. The application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

OPAE
OCT 05 2010
PATENT & TRADEMARK OFFICE

App Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 08/31/2013. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 27441/326USC1	
Application Number: 11/529,114	Filing Date (or 371(b) or (f) Date): 09/28/2006
Patent Number: 7,659,523	Issue Date: 02/09/2010
First Named Inventor: Bret R. Warrick	
Title: INTEGRATED ASSEMBLY FOR DELIVERY OF AIR STREAM FOR OPTICAL ANALYSIS	

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.

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

The Ollila Law Group LLC
2569 Park Lane
SUITE 202
Lafayette, CO 80026

Mail Date: 11/01/2010

Applicant	: Bret R. Warrick	: DECISION ON REQUEST FOR
Patent Number	: 7659523	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/529,114	: OF WYETH
Filed	: 09/28/2006	:
		:

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

SEP 01 2010

OFFICE OF PETITIONS

In re Patent of Itoga :
Patent No. 7,661,697 :
Issue Date: February 16, 2010 :
Application No. 11/529,429 :
Filing Date: September 29, 2006 :
Attorney Docket No. 086142-0905 :

Decision on Petition

This is a decision responding to the "Request for Reconsideration of Dismissal" filed May 20, 2010, which is being treated as a petition under 37 C.F.R. § 1.181.

The petition is **dismissed**.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" form was filed February 4, 2010. The Office issued a decision dismissing the February 4, 2010 request on April 21, 2010.

The instant petition was filed May 20, 2010. The petition asserts the Office's dismissal of the February 4, 2010 request was improper.

The Office has reviewed the record and determined the April 21, 2010 decision properly dismissed the February 4, 2010 request. Specifically, the February 4, 2010 request was untimely because the request was filed prior to February 16, 2010, the date the patent issued.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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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

FEB 17 2011

OFFICE OF PETITIONS

In re Patent of Itoga :
Patent No. 7,661,697 :
Issue Date: February 16, 2010 : Decision on Petition
Application No. 11/529,429 :
Filing Date: September 29, 2006 :
Attorney Docket No. 086142-0905 :

This is a decision responding to the paper filed November 1, 2010, which is being treated as a petition under 37 C.F.R. § 1.181.

The petition is **dismissed**.

Background

The Office issued a Notice of Allowance on October 14, 2009.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" ("*Wyeth* Request") form was filed February 4, 2010.

The patent issued February 16, 2010.

The Office issued a decision dismissing the *Wyeth* Request on April 21, 2010.

On May 20, 2010, Petitioner filed a "Request for Reconsideration of Dismissal," which the Office treated as a petition under 37 C.F.R. § 1.181.

A decision dismissing the May 20, 2010 petition was mailed September 1, 2010. The decision stated,

> The Office has reviewed the record and determined the April 21, 2010 decision properly dismissed the February 4, 2010 request. Specifically, the February 4, 2010 request was untimely because the request was filed prior to February 16, 2010, the date the patent issued.

The instant petition was filed November 1, 2010. The petition states,

> In the [September 1, 2010] Decision, the Petitions Attorney determined that the February 4, 2010 request was untimely filed because the request was filed prior to the issuance of the above-captioned patent. Patentee notes that the application has now issued into U.S. Patent No. 7,661,697, and hereby request reconsideration.

Discussion

The May 20, 2010 petition argued the dismissal of the February 4, 2010 *Wyeth* Request was improper. The September 1, 2010 decision concluded the dismissal of the *Wyeth* Request was proper because the *Wyeth* Request was untimely.

The instant petition requests reconsideration of the prior petition and states the application has issued into a patent. However, the instant petition fails to explain how the issuance of the patent establishes the May 20, 2010 dismissal of the *Wyeth* Request was improper.

Petitioner has failed to establish the *Wyeth* Request was timely filed. In other words, Petitioner has failed to establish the Office's issuance of a decision on April 21, 2010 dismissing the request was improper. Therefore, the instant petition cannot be granted and must be dismissed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/11

TO SPE OF : ART UNIT: 2472 Attn: TROST IV WILLIAM G (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/529632 Patent No.: 7869457

CofC Mailroom date: 01/31/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

■ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

/William Trost/ _2472__
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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of :
Vladimir BEREZIN :
Application No. 11/529,634 : DECISION GRANTING PETITION
Filed: September 29, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **M4065.0877/P877-A** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 1, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

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 amendment.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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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BECK AND TYSVER P.L.L.C.
2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS MN 55416

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application :
Erik J. van der Burg et al. :
Application No. 11/529,707 : DECISION ON PETITION
Filed: September 27, 2006 :
Attorney Docket No. 3819 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 19, 2010, to revive the above-identified application.

The petition is **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 Restriction Requirement mailed October 19, 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 November 20, 2009. A Notice of Abandonment was mailed on May 17, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the 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 signature on the petition was not accompanied by an attorney registration number.

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.

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
Alexandria, VA 22313-1450
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BECK AND TYSVER P.L.L.C.
2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS MN 55416

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application	:	
Erik J. van der Burg et al.	:	
Application No. 11/529,707	:	DECISION ON PETITION
Filed: September 27, 2006	:	
Attorney Docket No. 3819	:	

This is a decision on the renewed 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 Restriction Requirement mailed October 19, 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 November 20, 2009. A Notice of Abandonment was mailed 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 election and amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the election and amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the reply received August 19, 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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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Application of :
Soeng-Hun Kim, et al. :
Application No.: 11/529,736 : ON PETITION
Filed: September 29, 2006 :
Attorney Docket No.: 52572 :

This is a decision on the petition, filed July 27, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2617 for further processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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

AT&T Legal Department - Roebuck
Attn: Patent Docketing
One AT&T Way,
Room 2A-207
Bedminster, NJ 07921

MAILED

FEB 04 2011

OFFICE OF PETITIONS

In re Application of :
Jin Wang :
Application No. 11/529,782 : ON PETITION
Filed: September 28, 2006 :
Attorney Docket No. 392 (ATT 2022) :

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2010, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed on May 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 a Request for Continued Examination (RCE) along with the $810 fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since the correspondence address given in the present petition differs from the address of record, a courtesy copy of this decision is being mailed to petitioner. Thereafter, all future communications from the Office will be mailed solely to the address of record until otherwise notified.

This application file is being referred to Technology Center Art Unit 2611 for processing of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: G. Michael Roebuck
6750 West Loop South, Suite 920
Bellaire, TX 77401

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Thomas F. Lenihan
TEKTRONIX, INC.
P.O. Box 500, M/S 50-LAW
Beaverton OR 97077-0001

MAILED

DEC 07 2011

OFFICE OF PETITIONS

In re Application of :
Tan et al. :
Application No. 11/529,855 : DECISION ON PETITION
Filed: September 28, 2006 :
Attorney Docket No: 7780-US :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on November 23, 2011.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on February 1, 2011. The Notice set an extendable three-month reply period of May 1, 2011. Accordingly, this application became abandoned on May 2, 2011. A Notice of Abandonment was mailed on September 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1860.00, 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 the undersigned at (571) 272-3215.

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS F. LENIHAN
TEKTRONIX, INC.
MS/ 50-LAW
P.O. BOX 500
BEAVERTON OR 97077-0001

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	
TAN, et al	:	
Application No. 11/529,856	:	DECISION ON PETITION
Filed: September 28, 2006	:	
Attorney Docket No. 8073-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowability, mailed December 29, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

All other inquiries should be directed to the Office of Data Management at (571) 272-4000.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7287481	2007-10-30	11529902	2006-09-29	254715

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Salim A. Hasan/	Date (YYYY-MM-DD)	2012-02-22
Name	Salim A. Hasan	Registration Number	38175

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7287481
Issue Date: October 30,2007
Application No. 11529902
Filed: September 29,2006
Attorney Docket No. 254715 (CLIENT REFERENCE

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 22,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 22,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/12/11

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction for Appl. No.: 11529988 Patent No.: 7760695

CofC mailroom date: 10/06/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director/SPE response to 571-273-3421

Note: Should the changes to claim 13 be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X Approved — **All** changes apply.

❑ **Approved in Part** — Specify below which changes **do not** apply.

❑ **Denied** — State the reasons for denial below.

Comments: _____

/Kwang B. Yao/ — 2473

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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED
NOV 08 2011
OFFICE OF PETITIONS

In re Application of :
Daniel Fong et al. :
Application No. 11/530,043 : DECISION ON PETITION
Filed: September 8, 2006 :
Attorney Docket No. 252209-1710 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 12, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed July 12, 2011. Accordingly, the date of abandonment of this application is October 13, 2011. A Notice of Abandonment was mailed on October 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740 and the publication fee of $300, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OVERLAND PARK KS 66251-2100

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NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
David Uel McKinney et al. :
Application No. 11/530,154 : ON PETITION
Filed: September 8, 2006 :
Attorney Docket No: 41691SPRI.130060

This is a decision on the petition under 37 C.F.R. §1.183 filed October 27, 2010 seeking waiver of 37 CFR §§ 1.131 where it requires that an affidavit be executed by the named inventors.

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on September 8, 2006 with an Oath fully executed by all of the co-inventors. In response to a Final Office Action mailed July 6, 2010, which set a shortened statutory period for reply of three months, applicant submitted a reply and a declaration under 37 CFR 1.131 and a one month extension of time. The 37 CFR 1.131 declaration stated that all of the inventors were responsible for reduction to practice of the subject matter of the rejected claims prior to the date of the reference on which the July 6, 2010 rejection was based. However, the 37 CFR 1.131 declaration was signed by joint inventor McKinney but not by joint inventor Tim L. Swan. Applicant has filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by joint inventor Swan. According to applicant, the declaration was sent to joint inventor Swan but no reply has been received.

37 CFR 1.131 states, in pertinent part:

> 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.[1]

[1] 37 CFR 1.131(a) (emphasis added).

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[2]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are all of the joint inventors including Swan.

The petition bears proof that efforts to have joint inventor Swan execute the declaration under 37 CFR 1.131 have been employed but have not been successful.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by all joint inventors but all except joint inventor Swan have executed it. Applicant has demonstrated that a *bona fide* effort has been employed. Accordingly, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The petition fee in the amount of $400 has been charged to deposit account no. 21-0765

The application file is being forwarded to Technology Center 2462 for consideration of the reply and the 37 CFR 1.131 declaration, filed October 27, 2010.

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

---

[2] MPEP 715.04.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7226059	2007-06-05	11530217	2006-09-08	17882

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Ashkan Najafi/	Date (YYYY-MM-DD)	2011-09-23
Name	Ashkan Najafi	Registration Number	49078

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7226059
Issue Date: June 5,2007
Application No. 11530217
Filed: September 8,2006
Attorney Docket No. 17882

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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NOV 14 2011

OFFICE OF PETITIONS

In re Application of Zander et al. :
Application No. 11/530,264 :
Filing Date: September 8, 2006 : Decision on Request
Atty. Docket No. 14503-0008001/F62594PCU :
Pub. No.: US 2010/0311670 A1 :
Pub. Date: December 9, 2010 :

This is a decision on the request for a corrected patent application publication under 37 C.F.R. § 1.221(b) filed February 9, 2011.

The request is **granted**.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Telephone inquiries regarding this communication may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN MI 48126

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MAY 04 2011

OFFICE OF PETITIONS

In re Application of :
Roccato et al. :
Application No. 11/530,277 : ON PETITION
Filed: September 8, 2006 :
Attorney Docket No. 8114818 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 15, 2011, to revive the above-identified application. This is also a decision on the Supplemental to Petition under 37 CFR 1.137(b), filed April 13, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

The request under 37 CFR 3.81(b) is **DISMISSED**.

Petitioner states that the correct assignee's name is Volvo Car Corporation, Goteberg, Sweden and that an incorrect assignee's name, Ford Global Technologies, LLC, Dearborn, MI, was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Volvo Car Corporation.

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

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) or the processing fee as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Volvo Car Corporation has been recorded. Therefore, upon submission of the required certificate of correction and fees, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Volvo Car Corporation was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Volvo Car Corporation, as the assignee.** *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 23, 2010

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 11530297 Patent No.: 7819079

CofC mailroom date: Dec. 15, 2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

- • **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All changes approved.

Nadine Norton

Nadine Norton

SPE - 1713

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30 SEP 2010

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Apex Juris, PLLC
12733 Lake City Way Northeast
Seattle, WA 98125

In re Application of :
TAMATSU, Masaharu :
U.S. Application No. 11/530,342 : DECISION
PCT No.: PCT/JP2005/003914 :
Int. Filing Date: 07 March 2005 :
Priority Date: 08 March 2004 :
Attorney Docket No.: 06.04.01.USP :
For: DATABASE SYSTEM :

This decision is issued in response to applicant's "Petition under 37 CFR 1.182 to Convert §111 Application to §371 Filing Status" filed 20 August 2010. The initial papers filed 08 September 2006 were processed as a filing under 35 U.S.C. 111(a). For the reason discussed below, the application will be converted to a national stage filing of PCT/JP2005/003914 under 37 CFR 1.181.

BACKGROUND

On 07 March 2005, applicant filed international application PCT/JP2005/003914 which claimed a priority date of 08 March 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 September 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 September 2006.

On 08 September 2006, applicant initiated the present application by filing electronically a "Transmittal Letter To The United States Designated/Elected Office (DO/EO/US) Concerning A Submission Under 35 U.S.C. 371" (Form PTO-1390) requesting entry into the U.S. national stage for international application PCT/JP2005/003914. The Transmittal Letter was accompanied by, among other materials, a Preliminary Amendment, an application data sheet, and a $575 fee payment. The application was processed as a filing under 35 U.S.C. 111(a).

On 20 December 2006, applicant filed a declaration and power of attorney.

On 20 August 2010, applicant filed the present petition.

DISCUSSION

Petitioner states that "the PTO should not treat the application as regular §111 simply because Applicant checked 'utility'. . . . Applicant adamantly asserts that no conflicting instructions were given and that the amount of information provided the USPTO clearly indicates that Applicant always intended the application to be treated as a §371filing." The USPTO has adopted a bright-line test for determining whether application papers will be processed under 35 U.S.C. 371 or alternatively under 35 U.S.C. 111(a). Under this standard, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise the submission will be considered as being made under 35 U.S.C. 111(a).

Inspection of the instant application file reveals that the transmittal letter filed on 08 September 2006 specifically referenced 35 U.S.C. 371, and indicated which international application sought to enter the national stage in the United States. The application type shown for the 08 September 2006 EFS submission is "utility;" however, this does not constitute a conflicting instruction because it does not specify treatment under 35 U.S.C. 111(a) as opposed to 35 U.S.C. 371. Based on the totality of the circumstances present in this situation, treatment under 35 U.S.C. 371 would be appropriate. Therefore, the petition is granted.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The present application will be treated a national stage, filed under 35 U.S.C. 371, of international application of PCT/JP2005/003914. This application has an international filing date of 07 March 2005 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of 20 December 2006.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and Official Filing Receipt which identifies this application as a national stage application of PCT/JP2005/003914.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298

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PATENT ADMINISTRATOR
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NOV 05 2010

OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 11/530,362 : ON APPLICATION FOR
Filed: September 8, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. EDM-001CP :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) AND 37 C.F.R. § 1.705(b), filed September 15, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred twenty-eight (228) days, not one hundred fifty (150) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
John J. Hale
Application No. 11/530,368
Filed: 09/08/2006
Attorney Docket Number: BRBX-0001D1

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) and 1.55(c)

This is a decision on the paper styled as a petition under 37 CFR 1.78(a)(3), filed on August 22, 2011, which is treated as petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment.

The petitions are **DISMISSED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

There is a lack of copendency between the instant application and Application No. 10/374,742. Specifically, Application No. 10/374,742 became abandoned on June 9, 2006. Application No. 11/530,368, however, was not filed until September 8, 2006, after the prior-filed application became abandoned.

In this regard, 37 CFR 1.78(a)(3) states, in pertinent part, that a nonprovisional application or international application designating the United States of America may claim an invention

disclosed in one or more prior-filed *copending* nonprovisional applications or international applications designating the United States of America.

Furthermore, Application No. 10/374,742 is not presently a continuation of the prior-filed PCT application because Application No. 10/374,742 does not contain a proper reference to the PCT application. As such, assuming, *arguendo*, there was copendency between the two applications referenced in the above paragraph, Application No. 11/530,368 could not claim the benefit of the prior-filed PCT application.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is

claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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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

A reply may also be filed via the EFS-Web filing system of the USPTO.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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NOV 15 2011

OFFICE OF PETITIONS

In re Application of	:	
John J. Hale	:	
Application No. 11/530,368	:	DECISION ON PETITIONS
Filed: 09/08/2006	:	UNDER 37 CFR 1.78(a)(3) and 1.55(c)
Attorney Docket Number: BRBX-0001D1	:	
	:	

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 1.55(c), filed on October 26, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional and international applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, set forth in the concurrently-filed application data sheet.

The petitions are again **DISMISSED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition lacks item (3). Specifically, petitioner has not provided an acceptable statement that 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.

A renewed petition must be filed, including a proper statement of unintentional delay, in accordance with 37 CFR 1.78(a)(iii).

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on September 8, 2006, and is a division of Application No. 10/374,742, filed on February 25, 2003, which is a continuation of international Application No. PCT/GB2001/038389 filed on August 28, 2001, which is after November 29, 2000 and within 12 months of August 25, 2000 (the filing date of the foreign application to which benefit is now being claimed).[1] On October 26, 2011, an Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date.

The petition lacks item (4). In this regard, 37 CFR § 1.55(c) requires 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. No such statement has been provided.

A renewed petition, accompanied by a proper statement of unintentional delay in accordance with 37 CFR 1.55(c)(3), must be filed.

Additionally, a grantable petition under 37 CFR §§ 1.78(a)(3) and 1.55(c) must be filed in Application No. 10/374,742 before the subject petition may be granted.

---

[1] August 25, 2001 fell on a Saturday, and August 27, 2001, was an official holiday in the United Kingdom. Therefore, the international application filed on August 28, 2001, was timely filed within 12 months of the filing date of the prior-filed foreign application. PCT Rule 80.5.

The required petition fee of $1,410.00 was received with the petition. No further fee is due in connection with this petition.

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300
ATTN: Office of Petitions

A reply may also be filed via the EFS-Web system of the USPTO.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Bryan Lin
Legal Advisor
Office of PCT Legal Administration

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OFFICE OF PETITIONS

In re Application of
John J. Hale
Application No. 11/530,368
Filed: 09/08/2006
Attorney Docket Number: BRBX-0001D1

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) and 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 1.55(c), filed on December 6, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, set forth in the concurrently-filed application data sheet.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 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

365(c) 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.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on September 8, 2006, and is a division of Application No. 10/374,742, filed on February 25, 2003, which is a continuation of international Application No. PCT/GB2001/003839 filed on August 28, 2001, which is after November 29, 2000 and within 12 months of August 25, 2000 (the filing date of the foreign application to which benefit is now being claimed).[1] On October 26, 2011, a supplemental Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) should not be construed as meaning that this application is entitled to the benefit

[1] August 25, 2001 fell on a Saturday, and August 27, 2001, was an official holiday in the United Kingdom. Therefore, the international application filed on August 28, 2001, was timely filed within 12 months of the filing date of the prior-filed foreign application. PCT Rule 80.5.

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(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claims to the prior-filed international and foreign applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2612 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) and § 119(a)-(d) to the prior-filed applications.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/530,368	09/08/2006	2612	1125	BRBX-0001D1	36	6

CONFIRMATION NO. 9507

27964
HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

CORRECTED FILING RECEIPT

OC000000049715562

Date Mailed: 01/11/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John J. Hale, London, UNITED KINGDOM;

Assignment For Published Patent Application

BearBox, Ltd., London, UNITED KINGDOM

Power of Attorney:

M Cheairs--20382
David Hitt--33182
Charles Gaines--36804
Jimmy Heisz--38914
Glenn Boisbrun--39615
Richard Krobusek--44851
Greg Parker--44995
Mark Kelley--45857
Ronald Corbett--47500
James Justiss--48981

Domestic Priority data as claimed by applicant

This application is a DIV of 10/374,742 02/25/2003 ABN
and is a CON of PCT/GB01/03839 08/28/2001

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
UNITED KINGDOM 0021088.0 08/25/2000

If Required, Foreign Filing License Granted: 10/24/2006
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/530,368**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **
Title

SECURE UNATTENDED DELIVERY SYSTEM

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

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).

SelectUSA

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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	11530438
Filing Date	08-Sep-2006
First Named Inventor	Blair Dillaway
Art Unit	2438
Examiner Name	DAVID PEARSON
Attorney Docket Number	MS1-3266US
Title	SECURITY AUTHORIZATION QUERIES

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	/Scott M. Tobias/
Name	Scott M. Tobias
Registration Number	62808

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 10,2011

In re Application of :

Blair Dillaway

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11530438

Filed : 08-Sep-2006

Attorney Docket No : MS1-3266US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 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 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 2438 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

SEP 30 2010

OFFICE OF PETITIONS

Hicor Manufacturing Corp.
2461 Sunrise St., Tambo
Paranaque 1701
PHILIPPINES

In re Application of :
Martin E. EVANGELISTA :
Application No. 11/530,468 : ON PETITION
Filed: September 10, 2006 :
Title: Electronic Pre-combustion Treatment :
Device :

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 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 notice of non-compliant amendment (37 CFR 1.121) mailed June 11, 2008, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and no reply timely filed. Accordingly, the above-identified application became abandoned.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 11, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3219.

The application is being referred to Technology Center AU 3747 for appropriate action on the concurrently filed amendment.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
EVANGELISTA :
Application No. 11/530,468 : DECISION ON PETITION
Filed: September 10, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 9082P001 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 5, 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 made by registered attorney Paul Teng, which will be treated as the result of the attorney having evidence that at least one of the applicants is 65 years of age or more. In the event that such evidence is not with the attorney, the Office should be notified immediately. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

The application is being forwarded to Technology Center Art Unit 3783 for action on the merits commensurate with this decision.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Application of :
EVANGELISTA :
Application No. 11/530,468 :
Filed: September 10, 2006 :
Attorney Docket No. 9082P001 :

CORRECTED
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 May 5, 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 made by registered attorney William Thomas Babbitt, which will be treated as the result of the attorney having evidence that at least one of the applicants is 65 years of age or more. In the event that such evidence is not with the attorney, the Office should be notified immediately. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

The application is being forwarded to Technology Center Art Unit 3783 for action on the merits commensurate with this decision.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST
SUITE 210
PONTIAC MI 48342

MAILED

NOV 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,997,046 :
Issue Date: August 16, 2011 :
Application No. 11/530,503 : DECISION ON PETITION
Filed: May 27, 2008 :
Attorney Docket No. 1401A-004 :

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, 2011, which is being treated as a Petition Under 37 CFR 3.81(b) to correct assignee's name --CFS BUHL GMBH-- 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 correct assignee's name --CFS BUHL GMBH-- on the previously submitted PTOL-85B.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A petition under 37 CFR §3.81(b) requires a 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). This 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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GREENBERG TRAURIG (PHX)
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE , SUITE 400E
SANTA MONICA CA 90404

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Piscitelli, et al. :
Application No. 11/530,591 :
Filed: 11 September, 2006 :
Attorney Docket No.: 102466-011200 :

DECISION
ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 17 November, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled

to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 C.F.R. 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application(s), accompanies this decision on petition.

This application is being forwarded to the examiner of Technology Center/AU 1654 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 365(c) to the above-noted, prior-filed PCT application.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
11/530,591	09/11/2006	3641	1345	102466-011200	15	7

CONFIRMATION NO. 9927

CORRECTED FILING RECEIPT

71373
GREENBERG TRAURIG (PHX)
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE , SUITE 400E
SANTA MONICA, CA 90404

Date Mailed: 08/27/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Anthony Piscitelli, Long Beach, NY;
Curtis Taufman, Melville, NY;

Power of Attorney: The patent practitioners associated with Customer Number 71373

Domestic Priority data as claimed by applicant

This application is a CIP of 10/879,880 06/29/2004 ABN
and is a CON of PCT/US04/43513 12/22/2004

Foreign Applications

If Required, Foreign Filing License Granted: 08/26/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/530,591**

Projected Publication Date: 09/30/2010

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

ANTI-BALLISTIC EGRESS WINDOW ASSEMBLY

Preliminary Class

089

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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MAILED
APR 05 2012
OFFICE OF PETITIONS

In re Patent No. 8,099,665 :
BRODERSEN et al. : DECISION ON REQUEST FOR
Issue Date: January 17, 2012 : RECONSIDERATION OF
Application No. 11/530,643 : PATENT TERM ADJUSTMENT
Filed: September 11, 2006 : AND NOTICE OF INTENT TO
Attorney Docket No. 18814- : ISSUE CERTIFICATE OF
037001 / P4647US1 : CORRECTION
Title: ORGANIZING AND SORTING :
MEDIA MENU ITEMS :

This is a decision on the petition filed on March 16, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred ninety-four (894) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **six hundred two (602) days.**

On January 17, 2012, the above-identified application matured into U.S. Patent No. 8,099,665, with a revised patent term adjustment of 604 days. On March 16, 2012, 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 894.

Initially, Patentee discloses that a period of reduction of 2 days under 37 CFR 1.704(c)(8) should be entered for the filing of a supplemental reply on May 14, 2009, after the filing of a proper reply on May 12, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the supplemental reply. Accordingly, a period of reduction of 2 days is merited and will be entered. The Office thanks Patentee for this disclosure.

Next, Patentee maintains that the Office incorrectly calculated the period of examination delay pursuant to 37 CFR 1.702(b). Specifically, patentee disputes the period of time excluded from B delay for appellate review.

The Office has considered Patentee's argument, but does not find it persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination).

In this instance the period consumed by appellate review is two hundred ninety-two (292) days, beginning on November 5, 2010, the date of filing of the notice of appeal and ending on August 23, 2011, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 566 (858-292) days.

Accordingly, the patent term adjustment is 602 days (369 days of "A delay" + 566 days of "B delay" - 0 days of overlap - 333 day of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the payment of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred two (602) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,099,665 B2
DATED : Jan. 17, 2012
INVENTOR(S) : Brodersen 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 (604) days.

Delete the phrase "by 604 days" and insert – by 602 days--

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1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Willy Liu	:	
Application No. 11/530,739	:	DECISION ON PETITION
Filed: September 11, 2006	:	
Attorney Docket No. SMBZ 201066US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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 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 November 19, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on January 20, 2011. See MPEP 1215.04. A Notice of Abandonment was mailed July 15, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

With respect to item (1), petitioner has failed to submit the required reply. The proposed reply required for consideration of a petition to revive must be an appeal brief under 37 CFR 41.37 and the appeal brief fee required by 37 CFR 41.20(b)(2), a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b).

Petitioner must now submit a proper reply as described above.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350.00, five- month extension of time fee submitted with the

petition on September 14, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

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CLEVELAND OH 44115

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NOV 04 2011

OFFICE OF PETITIONS

In re Application of :
Willy Liu :
Application No. 11/530,739 : DECISION ON PETITION
Filed: September 11, 2006 :
Attorney Docket No. SMBZ 201066US01 :

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 **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 November 19, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on January 20, 2011. See MPEP 1215.04. A Notice of Abandonment was mailed July 15, 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 continuation, (2) the petition fee of $1,620.00 (previously paid on September 14, 2011), 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. 13/164,076, filed June 20, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,747,968 : DECISION ON APPLICATION FOR
Issued: June 29, 2010 : PATENT TERM ADJUSTMENT and
Application No. 11/530,808 : NOTICE OF INTENT TO ISSUE
Filed: September 11, 2006 : CERTIFICATE OF CORRECTION
Dkt. No.: 18814-0034001 / P4644US1 :

This is a decision on the petition filed August 27, 2010 requesting that the patent term adjustment be increased from 391 days to 478 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

The patent is entitled to an overall adjustment of 321 days.

The above-identified application issued as U.S. Pat. No. 7,747,968 on June 29, 2010. The patent issued with a patent term adjustment of 391 days. The instant application for patent term adjustment was timely filed August 27, 2010. Patentees assert entitlement to an additional adjustment of 291 days for the Office's failure to issue the patent within three years of the date that the application was filed. Patentees further advise that the adjustment is subject to a reduction of 22 days in connection with the reply filed January 24, 2007 in response to the Notice mailed October 2, 2006.

Review of the record reveals that the patent is entitled to an adjustment of 381 days pursuant to 37 CFR 1.703(a)(1), from November 12, 2007 to November 26, 2008.

The patent is entitled to an adjustment of 291 days pursuant to 37 CFR 1.703(b), from September 12, 2009 to June 29, 2010.

However, the period of adjustment pursuant to 37 CFR 1.703(b) shall not include any time consumed by review by the Board of Patent Appeals. Accordingly, the period of adjustment of 291 days pursuant to 37 CFR 1.703(b) cannot include the period of 110 days from November 5, 2009, the date that the Notice of Appeal was filed, to February 22, 2010, the date that the November of Allowance was mailed.

Patentees are advised that the Pre-Brief Appeal Conference and the Pre-Brief Appeal Conference Decision are a part of a USPTO pilot program and as such have no impact of the determination of patent term adjustment. See, Pre-Appeal Brief Conference Pilot Program, 1296 OG 67 (July 12, 2005).

The period of adjustment pursuant to 37 CFR 1.703 is properly reduced a total of 241 days for applicant delays pursuant to 37 CFR 1.704. In addition to the 172 days of reduction for applicant delays pursuant to 37 CFR 1.704, the adjustment is subject to a further reduction of 22 days, as advised by applicants, in connection with the reply filed January 24, 2007. See, 37 CFR 1.704(b). The adjustment is further subject to a further reduction of 47 days pursuant to 37 CFR 1.704(c)(8) in connection with the information disclosure statement filed April 14, 2009. The reduction commenced February 27, 2009, the day after the date that the initial reply was filed, and ended April 14, 2009, the date that the supplemental reply (information disclosure statement) was filed.

In view thereof, the patent is entitled to an overall adjustment of 321 days (381 days pursuant to 37 CFR 1.703(a) + 291 days pursuant to 37 CFR 1.703(b) – 110 days pursuant to 37 CFR 1.703(b)(4) – 241 days pursuant to 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

Receipt is hereby acknowledged of the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 321 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,747,968

DATED : June 29, 2010 **DRAFT**

INVENTOR(S) : Brodersen, 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 391 days

Delete the phrase "by 391 days" and insert -- by 321 days --

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MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,831,727 :
Issue Date: November 9, 2010 :
Application No. 11/530,822 : DECISION ON PETITION
Filed: September 11, 2006 :
Attorney Docket No. 18814-038001/P4648US1 :

This is a decision on the Request To Correct Assignee Under 37 CFR 3.81(b), filed February 24, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (Substitute PTO/SB/44) was previously submitted.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Apple Computer, Inc."

to:

--Apple Inc.--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (Substitute PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,831,727.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Paper No.

FISH & RICHARDSON P.C.
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In re Patent No. 7,831,727	:	DECISION ON REQUEST
Brodersen et al.	:	FOR
Issue Date: November 9, 2010	:	RECONSIDERATION OF
Application No. 11/530,822	:	PATENT TERM ADJUSTMENT
Filed: September 11, 2006	:	and
Atty Docket No. 18814-038001 / 94648US1	:	NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 7, 2011, pursuant to 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and seventeen (817) 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 twenty-eight (728) days is **GRANTED to the extent indicated herein.**

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The period of 493 days of examination delay is not in dispute.

The period of 100 days of applicant delay is not in dispute.

The period of zero days of overlap is not in dispute.

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

[1] Petition, page 5.

Patentee's dispute the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 89 days, beginning on February 19, 2100, the date of filing of the notice of appeal and ending on May 18, 2010, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 335 (424 over three years - 89 excluded) days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Moreover, it is noted that the Office miscalculated the B delay to be 336 days instead of 335 days (the date on which a notice of appeal is filed is included in the period of exclusion).[2]

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and twenty-eight (728) 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

[2] 37 C.F.R. § 1.702(b)(4).

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) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,831,727 B2

DATED : **November 9, 2010** **DRAFT**

INVENTOR(S) : Aoki 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 729 days

Delete the phrase "by 729 days" and insert – by 728 days--

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In re Patent No. 7,831,727 :
Brodersen et al. :
Issue Date: November 9, 2010 :
Application No. 11/530,822 : NOTICE OF INTENT TO ISSUE
Filed: September 11, 2006 : CERTIFICATE OF CORRECTION
Atty Docket No. 18814-038001 :
/ 94648US1 :

A petition was filed on January 7, 2011, pursuant to 37 C.F.R. § 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and seventeen (817) days. The petition was granted via the mailing of a decision on July 15, 2011, to the extent that the term of the above-identified patent is extended or adjusted by seven hundred and twenty-eight (728) days.

A certificate of correction was included with the aforementioned decision, and it is noted that the certificate of correction contains a typographical error, in that the wrong first-named inventor appears thereon. This certificate of correction issued on August 16, 2011.

The Certificates of Branch will be made aware of this mailing, so that a certificate of correction containing the correct first-named inventor can be issued.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,831,727 B2

DATED : **November 9, 2010** **DRAFT**

INVENTOR(S) : Brodersen 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,

INVENTOR(S) : Aoki et al.

Delete the phrase "Aoki et al." and insert – Brodersen et al. --

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET NW, SUITE 1100
WASHINGTON, DC 20006

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of :
Eugene A. FUSZ, *et al.* :
Application No. 11/530,873 : DECISION GRANTING PETITION
Filed: September 11, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **27592-01050-US4** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 7, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 3625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD, SUITE 150
LAKEWOOD CO 80228

MAILED

JUL 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Matthews et al.	:	
Application No. 11/530901	:	
Filing or 371(c) Date: 09/12/2006	:	ON PETITION
Attorney Docket Number: FORT-000210	:	

This is a decision on the Petition under 37 CFR 1.137(b), filed June 14, 2011, to revive the above-identified application.

This Petition is hereby **granted**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 26, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claims were allowed, the application became abandoned on December 27, 2009. *See* MPEP 1215.04.

Applicant files the present petition and Appeal Brief. 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 Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed. The Appeal is reinstated. Accord MPEP 1215.04.

The application is being referred to Technology Center Art Unit 2444 for processing of the Appeal Brief.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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FEB 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Ativanichay et al.	:	
Application No. 11/530930	:	DECISION
Filing or 371(c) Date: 09/12/2006	:	ON PETITION
Patent No.: 8086463	:	
Issue Date: 12/27/2011	:	
Attorney Docket Number: N0484.70523US00	:	

This is a decision on the "Petition for Certificate of Correction Under 37 C.F.R. § 1.183," filed January 12, 2012. The request is properly treated as a petition under 37 CFR 3.81(b)[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect the additional name of NUANCE COMMUNICATIONS, INC., as the sole assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

The processing fee for the petition is $130.00. The balance, $270.00, has been refunded to petitioner's credit card.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

JUN 22 2011

OFFICE OF PETITIONS

In re Application of:
AKKAR ET AL.
Serial No.: 11/531,043
Filed: September 12, 2006
Attorney Docket No.: TI-60260

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and the associated fee; (2) an appeal brief and the associated fee , (3) the petition fee of $1620.00; and (4) 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.

This application is being referred to Technology Center AU 2186 for processing of the Notice of Appeal and for appropriate action by the Examiner in the normal course of business on the appeal brief submitted in accordance with 37 CFR 1.114.

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Qingfeng Wang, et al. :
Application No. 11/531,103 : ON PETITION
Filed: September 12, 2006 :
Attorney Docket No. TI-62014 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 26, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 27, 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 $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2892 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 21 2010

OFFICE OF PETITIONS

In re Application :
Unger, et al. :
Application No. 11/531,147 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: September 12, 2006 :
Dkt. No.: 020174-008511US :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed July 28, 2010. This matter is being properly treated under 37 CFR 1.705(b).

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicants submit that the application is entitled to a patent term adjustment of 403 days, not 369 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed May 13, 2010. Applicants contest the reduction of 45 days under 37 CFR 1.704(c)(8) in connection with the supplemental reply filed March 12, 2010.

The Office errantly entered April 15, 2010 as the date of receipt of the supplemental reply. Accordingly, the correct reduction in this regard is 11 days (from March 2, 2010 to March 12, 2010), not 45 days, as argued.

In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 403 days, as argued.

The $200.00 patent term adjustment application required per 37 CFR 1.18 (e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 9/16/2010

PALM INTRANET

Time: 07:37:21

PTA Calculations for Application: 11/531147			
Application Filing Date:	09/12/2006	PTO Delay (PTO):	508
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	139
Post-Issue Petitions:	0	Total PTA (days):	403
PTO Delay Adjustment:	34		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	09/16/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
60	09/16/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	45		
52	05/13/2010	MAIL NOTICE OF ALLOWANCE			
51	05/12/2010	ISSUE REVISION COMPLETED			
50	05/12/2010	DOCUMENT VERIFICATION			
49	05/12/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	05/12/2010	CASE DOCKETED TO EXAMINER IN GAU			
47	05/10/2010	EXAMINER'S AMENDMENT COMMUNICATION			
46	05/10/2010	NOTICE OF ALLOWABILITY			
45	03/12/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	02/23/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	04/15/2010	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		45	36
42	03/12/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	04/01/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
39	02/23/2010	REFERENCE CAPTURE ON IDS			
38	03/16/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	03/24/2010	DATE FORWARDED TO EXAMINER			
36	03/01/2010	RESPONSE AFTER NON-FINAL ACTION		76	29
35	03/01/2010	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	03/12/2010	REFERENCE CAPTURE ON IDS			
33	03/12/2010	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
32	02/23/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	03/12/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	02/23/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	09/15/2009	MAIL NON-FINAL REJECTION			
28	09/14/2009	NON-FINAL REJECTION			
25	11/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	07/21/2009	MISCELLANEOUS INCOMING LETTER			
21	09/02/2009	DATE FORWARDED TO EXAMINER			
20	07/21/2009	RESPONSE TO ELECTION / RESTRICTION FILED		18	18
19	07/21/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	04/03/2009	MAIL RESTRICTION REQUIREMENT	508		-1
17	03/30/2009	REQUIREMENT FOR RESTRICTION / ELECTION			
16	11/06/2008	REFERENCE CAPTURE ON IDS			
15	11/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
12	11/05/2007	TRANSFER INQUIRY TO GAU			
11	08/10/2007	TRANSFER INQUIRY TO GAU			
10	01/04/2007	PG-PUB ISSUE NOTIFICATION			
9	09/29/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	09/12/2006	PRELIMINARY AMENDMENT			
7	09/28/2006	APPLICATION DISPATCHED FROM OIPE			
6	09/29/2006	APPLICATION IS NOW COMPLETE			
5	09/21/2006	CLEARED BY L&R (LARS)			
4	09/19/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/19/2006	CASE CLASSIFIED BY OIPE			
2	09/19/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/12/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/3/09 Paper No.: ____

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/531212 Patent No.: 7595431B2

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: _____

/Peter Paras/ SPE 1632 5/2/11

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Paper No.

ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

MAILED

OCT 2 0 2010

OFFICE OF PETITIONS

In re Application of:	:	LETTER REGARDING
D'Orchymont et al.	:	PATENT TERM ADJUSTMENT
Application No. 11/531,332	:	and
Filed: September 13, 2006	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. SSL0226 US	:	CERTIFICATE OF CORRECTION
Title: INDAZOLECARBOXAMIDE	:	
DERIVATIVES FOR THE TREATMENT	:	
AND PREVENTION OF MALARIA	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.705(b) filed September 29, 2010. Applicant requests an adjustment of the initial patent term adjustment from 703 days to 618 days, a reduction of 85 days.

The request for reconsideration of the 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 **six hundred and eighteen (618)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 29, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 703 days. The present application for patent term adjustment was timely filed[1] on or before payment of the issue fee. Applicant discloses that there should be an additional

1 PALM records indicate that the issue fee was submitted concurrently on September 29, 2010.

Applicant delay of 85 days due to the filing of a response to a notice to file missing parts (notice) on April 20, 2007. A review of the record confirms that a notice to file missing parts was mailed on October 25, 2006, and a response was received three months and 85 days later, on April 20, 2007. Pursuant to 37 C.F.R. § 1.704(b),[2] this constitutes a delay of 85 days.

Thus, the proper period of applicant delay is 131 (85 + 46) days.

The 749 days of examination delay is not in dispute.

In view thereof, the revised patent term adjustment is 618 (749-131) **days.**

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Copy of the Revised Patent Term Adjustment

---

[2] See also MPEP § 2732.

Day : Monday
Date: 10/18/2010

PALM INTRANET

Time: 11:50:05

PTA Calculations for Application: 11/531332			
Application Filing Date:	09/13/2006	PTO Delay (PTO):	749
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	46
Post-Issue Petitions:	0	Total PTA (days):	618
PTO Delay Adjustment:	-85		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	10/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		85	
50	06/29/2010	MAIL NOTICE OF ALLOWANCE			
49	06/23/2010	ISSUE REVISION COMPLETED			
48	06/23/2010	DOCUMENT VERIFICATION			
47	06/23/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	06/23/2010	CASE DOCKETED TO EXAMINER IN GAU			
45	06/21/2010	EXAMINER'S AMENDMENT COMMUNICATION			
44	06/21/2010	NOTICE OF ALLOWABILITY			
43	06/15/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	04/29/2010	DATE FORWARDED TO EXAMINER			
41	04/16/2010	RESPONSE AFTER NON-FINAL ACTION		46	37
40	04/16/2010	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	12/01/2009	ELECTRONIC REVIEW			
38	12/01/2009	EMAIL NOTIFICATION			
37	12/01/2009	MAIL NON-FINAL REJECTION	749		-1
36	11/23/2009	NON-FINAL REJECTION			
35	03/05/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	03/05/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	06/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	11/10/2009	CASE DOCKETED TO EXAMINER IN GAU			
24	03/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

23	03/05/2009	FILED			
22	03/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/02/2008	EMAIL NOTIFICATION			
20	10/02/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19	09/29/2008	CORRESPONDENCE ADDRESS CHANGE			
18	08/09/2007	PG-PUB ISSUE NOTIFICATION			
17	07/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	06/15/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	04/10/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	06/13/2007	REFERENCE CAPTURE ON IDS			
13	06/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/01/2007	APPLICATION DISPATCHED FROM OIPE			
10	04/30/2007	SENT TO CLASSIFICATION CONTRACTOR			
9	04/30/2007	APPLICATION IS NOW COMPLETE			
8	04/20/2007	ADDITIONAL APPLICATION FILING FEES			
7	04/20/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	10/23/2006	CLEARED BY L&R (LARS)			
4	10/23/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/23/2006	CASE CLASSIFIED BY OIPE			
2	10/18/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/13/2006	INITIAL EXAM TEAM NN			

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11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

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NOV 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Shuo Wang et al.	:	
Application No. 11/531,392	:	NOTICE
Filed: September 13, 2006	:	
Attorney Docket No. **01640569AA**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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Sterne, Kessler, Goldsein & Fox P.L.L.C
1100 New York Avenue, N.W.
Washington, DC 20005

Mail Date: 08/02/2010

Applicant	: William R. Barclay	: DECISION ON REQUEST FOR
Patent Number	: 7666657	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/531,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **373** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MOTOROLA SOLUTIONS, INC.
IP LAW DOCKETING
1303 EAST ALGONQUIN ROAD
IL01/11TH FLOOR
SCHAUMBURG, IL 60196

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of :
Christopher W. Drackett et al :
Application No. 11/531,774 : ON PETITION
Filed: September 14, 2006 :
Attorney Docket No. CS27781STARS :

This is a decision on the petition filed March 2, 2011 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed November 10, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 11, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Stephen H. Shaw
600 North US Highway 45
Libertyville, IL 60048

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: TTCIP109US	
Application Number: 11/531,935	Filing Date (or 371(b) or (f) Date): September 14, 2006
Patent Number: 7,661,666	Issue Date: February 16, 2010
First Named Inventor: Yasunobu Terao	
Title: SHEET PROCESSING APPARATUS AND SHEET PROCESSING METHOD	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Greg Turocy/	Date August 2, 2010
Name (Print/Typed) Gregory Turocy	Registration Number 36,952

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

TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

Mail Date: 09/13/2010

Applicant	: Yasunobu Terao	: DECISION ON REQUEST FOR
Patent Number	: 7661666	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/531,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **577** 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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MAILED

MAR 14 2011

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	DECISION ON REQUEST
Chua-Eoan et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,812,582	:	PATENT TERM ADJUSTMENT
Issue Date: 10/12/2010	:	and
Application No. 11/532000	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 09/14/2006	:	CERTIFICATE OF CORRECTION
Attorney Docket Number:	:	
060781	:	

This is a decision on the petition filed on filed December 13, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least two hundred eighty-nine (289) 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 at least two hundred eighty-nine (289) days is **GRANTED to the extent indicated herein.**

Patentees provide that this Office errantly calculated a reduction of 113 days in connection with the filing of an amendment pursuant to 37 C.F.R. 1.312. Applicants note that an amendment under 1.312 was filed on June 22, 2010, and the reduction should have been calculated beginning on June 22, 2010, and ending on July 19, 2010, the date the reply to the 1.312 amendment was mailed, and is 28 days.

A review of office records confirms that applicants filed an amendment under 37 C.F.R. 1.312 on June 22, 2010, and the Office mailed a reply to the amendment on July 14, 2010, and the reduction pursuant to 37 CFR 1.704(c)(10) is properly calculated at 23 days, beginning on the date the amendment under § 1.312 was filed, and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312.

A further review of the application file history reveals that Office is also failed to assess a reduction pursuant to 37 CFR 1.704(b) in connection with the response to the Notice to File Missing parts of Nonprovisional Application, mailed October 4, 2006. The reduction commenced 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, January 5, 2007, and ending on the date the reply was filed, March 1, 2007. A reduction of 56 days pursuant to 37 CFR 1.704(b), is properly assessed to Patentees.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred thirty-eight **(238)** days (adjustments of 317 days less reductions of 79 days).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, 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 : 7,812,582 B2

DATED : **October 12, 2010**

INVENTOR(S) : Chua-Eoan 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 204 days.

Delete the phrase "by 204 days" and insert – by 238 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

3-21-2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No : 7,812,582 B2
Ser. No. : 11/532,000
Inventor(s) : Chua-Eoan, et. al.
Issued : October 12, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will issue to correct the remaining error noted in your request.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Michelle Gallardo
Qualcomm Incorporated
5775 Morehouse Drive
San Diego, CA 92121

ej

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.
11/532,041	09/14/2006	Jeffrey Doyle Mullin	1361015-2197/P06668	2159

38845 7590 08/25/2011

FLH/National Semiconductor Corporation
c/o Frommer Lawrence & Haug LLP
745 Fifth Ave.
NEW YORK, NY 10151

EXAMINER	
SADIO, INSA	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
08/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FLH/National Semiconductor Corporation
c/o Frommer Lawrence & Haug LLP
745 Fifth Ave.
NEW YORK NY 10151

In re Application of:)
MULLIN, JEFFREY DOYLE) **DECISION ON PETITION**
Application No. 11/532,041)
Filed: September 14, 2006)
For: **DC OFFSET CORRECTION FOR AN ELECTROLUMINESCENT PANEL**)

This is a decision on the petition filed July 1, 2011 to review and withdraw the requirement for restriction that withdraws from consideration claims 1-10.

The petition is **DISMISSED AS MOOT**.

A review of the file record indicates that claims 1-10 have been cancelled by Applicant in the Amendment filed February 28, 2011. There is no ground for petition on review since these claims are no longer pending in this application. The prosecution on the merits is closed (Notice of Allowance and Fee Due was mailed on May 26, 2011) and claims 11-19 have been allowed.

Application has been forwarded to the Office of Publications for post allowance processing.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DOV ROSENFELD
5507 COLLEGE AVE, SUITE 2
OAKLAND, CA 94618

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application of :
David S. MCGRATH :
Application No. 11/532,185 : DECISION GRANTING PETITION
Filed: September 15, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **LAKE029D** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 30, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 15, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED
JAN 10 2011
OFFICE OF PETITIONS

In re Application of
Kanad Ghose
Application No. 11/532,197 : ON PETITION
Filed: September 15, 2006
Attorney Docket No. SUNY-RB-199

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 December 22, 2009 for failure to timely reply to the Final Office Action mailed August 19, 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 April 29, 2010.

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 2185 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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HARRITY & HARRITY, LLP
11350 RANDOM HILLS ROAD
SUITE 600
FAIRFAX VA 22030

MAILED

SEP 2 4 2010

OFFICE OF PETITIONS

In re Application of	:	
Irina Faltman	:	
Patent Number: 7,664,474	:	DECISION ON REQUEST
Issue Date: 02/16/2010	:	FOR RECONSIDERATION OF
Application No. 11/532209	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/15/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
PS06 0445US2	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 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 adjusted by a number of additional days to account for the Three Years delay under 35 U.S.C. § 154(1)(B).

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 a number of additional days to account for the Three Years delay under 35 U.S.C. § 154(1)(B) is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred fifteen (715) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,664,474 B2

DATED : **February 16, 2010**

INVENTOR(S) : Faltman

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 561 days.

Delete the phrase "by 561 days" and insert – by 715 days--

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SEP 29 2011

OFFICE OF PETITIONS

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

In re Application of :
Harrison, et al. :
Application No. 11/532,219 :
Filed: September 15, 2006 :
Atty Docket No. 2027.002700/KDG (2007070- :
:

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed September 22, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred and ninety-one (491) days to six hundred and forty-two (642) days.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on February 8, 2010.

---

[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 applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred and ninety-seven (497) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On August 26, 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 is 491 days. On September 22, 2011, applicants timely submitted the instant application for patent term adjustment.[2]

Applicants' assert that a periods of reduction under 37 CFR 1.704(b) for the filing of a reply to a Notice to File Missing Parts of Non-provisional Application is 84 days, rather than 90 days as calculated by the Office. Applicants' argument persuasive. The record reveals a Notice to File Missing Parts of Non-Provisional Application was mailed October 24, 2006, to which applicants responded on April 18, 2007, three months and 84 days after the Notice was mailed. The period of reduction to the patent term adjustment under 37 CFR 1.704(b) is 84 days, beginning January 25, 2007, and ending April 18, 2007. **The period of 90 days is being removed, and a period of 84 days entered.**

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is four hundred and ninety-seven (497) days (608 days of Office delay - 111 days of applicant delay).

The Office is in 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).

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[2] PALM records indicate that the issue fee payment was received on September 23, 2011.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

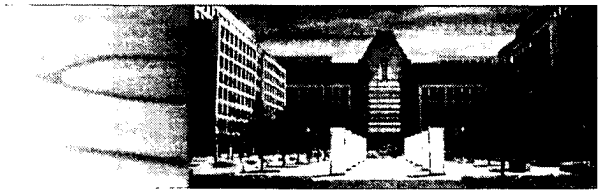
Telephone inquiries regarding this specific matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11532219 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11532219

Application Filing Date	09/15/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	608
A Delays	608	PTO Manual Adjustment	6
B Delays	0	Applicant Delay (APPL)	117
C Delays	0	Total PTA (days)	497

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
95	09/27/2011		P028	Adjustment of PTA Calculation by PTO	6		0
91	08/26/2011		MN/=.	Mail Notice of Allowance			0
90	08/26/2011		OAR	Office Action Review			0
89	08/26/2011		OAR	Office Action Review			0
88	08/26/2011		OAR	Office Action Review			0
87	08/26/2011		OAR	Office Action Review			0
86	08/26/2011		IREV	Issue Revision Completed			0
85	08/26/2011		DVER	Document Verification			0
84	08/26/2011		N/=.	Notice of Allowance Data Verification Completed			0
74	08/18/2011		FWDX	Date Forwarded to Examiner			0
73	08/17/2011		A.NE	Amendment after Final Rejection			0
83	08/09/2011		EXIA	Interview Summary- Applicant Initiated			0
82	08/09/2011		EX.R	Reasons for Allowance			0
81	08/09/2011		EX.A	Examiner's Amendment Communication			0
80	08/09/2011		CNTA	Allowability Notice			0
72	07/01/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
71	06/30/2011		OAR	Office Action Review			0
70	06/30/2011		CTFR	Final Rejection			0
69	06/03/2011		FWDX	Date Forwarded to Examiner			0
68	05/25/2011	04/28/2011	A...	Response after Non-Final Action		27	62
67	05/25/2011		XT/G	Request for Extension of Time - Granted			0
66	05/24/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
65	05/20/2011		OAR	Office Action Review			0
64	05/20/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
62	01/28/2011		MSRNF	Mail Supplemental Non-Final Action			0
61	01/27/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
60	01/27/2011		SRNF	Supplemental Non-Final Action			0
59	01/06/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
58	10/26/2010	06/08/2010	MCTNF	Mail Non-Final Rejection	140		50
57	10/25/2010		CTNF	Non-Final Rejection			0
56	10/06/2010		DOCK	Case Docketed to Examiner in GAU			0
55	03/30/2010		DOCK	Case Docketed to Examiner in GAU			0
54	02/08/2010		FWDX	Date Forwarded to Examiner			0
53	02/08/2010		AMPR	RCE- AF Processed			0
52	02/08/2010		FWDX	Date Forwarded to Examiner			0
51	02/08/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
50	02/08/2010		RCEX	Request for Continued Examination (RCE)			0
49	02/08/2010		ABN9	Disposal for a RCE / CPA / R129			0
48	02/08/2010		BRCE	Workflow - Request for RCE - Begin			0
47	01/20/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
46	01/15/2010		CTAV	Advisory Action (PTOL-303)			0
45	01/08/2010		FWDX	Date Forwarded to Examiner			0
44	01/08/2010		A.NE	Amendment after Final Rejection			0
43	11/09/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
42	11/09/2009		CTFR	Final Rejection			0
38	09/07/2009		FWDX	Date Forwarded to Examiner			0
37	08/25/2009		A...	Response after Non-Final Action			0
36	06/08/2009		MW/AC	Mail Notice of Withdrawn Action			0
35	06/08/2009		MCTNF	Mail Non-Final Rejection			0
34	06/05/2009		CTNF	Non-Final Rejection			0
32	03/30/2009		DOCK	Case Docketed to Examiner in GAU			0
31	03/26/2009		FWDX	Date Forwarded to Examiner			0
30	03/23/2009		ELC.	Response to Election / Restriction Filed			0
29	03/20/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
28	03/17/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0

27	02/27/2009		MCTRS	Mail Restriction Requirement			0
26	02/27/2009		CTRS	Restriction/Election Requirement			0
25	02/27/2009		W/AC	Withdrawing/Vacating Office Action Letter			0
24	02/25/2009	11/15/2007	MCTRS	Mail Restriction Requirement	468		0.5
23	02/24/2009		CTRS	Restriction/Election Requirement			0
18	05/08/2008		C.ADB	Correspondence Address Change			0
17	08/09/2007		PG-ISSUE	PG-Pub Issue Notification			0
16	06/15/2007		DOCK	Case Docketed to Examiner in GAU			0
14	05/24/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
11	05/15/2007		OIPE	Application Dispatched from OIPE			0
10	04/27/2007		PGPC	Sent to Classification Contractor			0
9	04/27/2007		COMP	Application Is Now Complete			0
6	04/24/2007	01/24/2007	FLFEE	Payment of additional filing fee/Preexam		90	4
5	04/24/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
4	10/24/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	10/19/2006		L194	Cleared by OIPE CSR			0
2	10/19/2006		SCAN	IFW Scan & PACR Auto Security Review			0
33	09/27/2006		IDSC	Information Disclosure Statement considered			0
15	09/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
13	09/27/2006		RCAP	Reference capture on IDS			0
12	09/27/2006		M844	Information Disclosure Statement (IDS) Filed			0
1	09/15/2006		IEXX	Initial Exam Team nn			0
0.5	09/15/2006		EFILE	Filing date			0

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/532,334	09/15/2006	Jennifer L. Stanton	218216-01	2622

25101 7590 03/30/2012

Philip D. Freedman PC
1449 Drake Lane
Lancaster, PA 17601

EXAMINER	
NICHOLS II, ROBERT K	
ART UNIT	PAPER NUMBER
3754	
MAIL DATE	DELIVERY MODE
03/30/2012	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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Philip D. Freedman PC
1449 Drake Lane
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In re Application of:
STANTON, JENNIFER L. et al
Serial No.: 11/532,334
Filed: Sep. 15, 2006
Docket: 218216-01
Title: VISCOUS MATERIAL FEED SYSTEM AND METHOD

DECISION ON PETITION TO WITHDRAW DRAWING OBJECTION

This is a decision on the petition filed on June 12, 2011 to request entry of the amended Figures 2 and 6 of September 29, 2010 and withdrawal the objection to the drawings and the specification as stated in the final rejection of February 3, 2011. This decision is being considered pursuant to 37 CFR 1.181. No fee is required under this section.

The petition is **DISMISSED**

The record shows that:

1. The examiner issued a final rejection on February 3, 2011. The examiner objected to the drawings for failure to illustrate every feature of the invention specified in the claims under 37 CFR 1.183(a). Therefore, the claimed embodiment having rails that slidably secure a cutting wire of claim 1 must be shown or the feature canceled from the claim. This drawing objection was first raised in the non-final Office action of September 17, 2009 and repeated throughout the prosecution. It is noted that the applicant did however amend the drawings by submitting substitute sheets of drawings of Figs. 2 and 6. In the final rejection of February 3, 2011, the examiner also objected to the amendment of September 23, 2006 and subsequent amendments under 35 U.S.C. 132(a) because they introduce new matter.

2. On June 12, 2011, the applicant filed this petition for review by the Director of the Technology Center requesting entry of the amended drawings filed on September 23, 2006 and withdrawal of the drawing objection and the specification objection.

3. Subsequently, on July 5, 2011, the applicant filed an RCE and requested the Rule 116 amendment of June 12, 2011 be entered.

4. The examiner on March 26, 2012 issued a non-final Office action. The examiner maintained objections to the drawings and the specification for the same reasons as stated previously, which included the presence of a feature "slidably secure a cutting wire" that did not correspond to the original specification. The examiner objected to the amended drawings because they introduced new matter into the disclosure in contravention of 35 U.S.C. 132. The examiner also continued to reject the claims at issue under 35 USC § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Discussion and Analysis

A review of the record indicates that the drawing objection and claim rejection are directed to the same issues. Under 37 CFR 1.83(a)[1], the drawing in a nonprovisional application must illustrate every claimed feature, with the exception of conventional features deemed not essential for a proper understanding of the invention. These features should be illustrated in a graphical drawing or labeled representation. In the newly amended drawings of Figs. 2 and 6, rails that slidably secure the cutting wire could not be sufficiently recognized. The amended figures are not commensurate or consistent with the claims. The amended figures do not correspond to the original specification as filed on September 15, 2006. The examiner believes that the drawings do not accurately portray each essential element of the invention, and that new matter is introduced. In the non-final office action of March 26, 2012, the examiner also rejected claim 44 under the first paragraph of the 35 USC§ 112 because claim 44 contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is the policy of the USPTO in appropriate circumstances to decline to rule on a petitionable issue, when, as here, that an issue is also determinative of a rejection, and as such, is appropriate for consideration on appeal to the BPAI. In this case, the issue in the objection and rejection, as here, additionally and necessarily requires the exercise of

[1] § 1.83 Content of drawing. (a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.

technical skill and legal judgment in order to evaluate the facts presented, the issue is properly decided on the merits, and is properly reviewed on appeal, not petition. Under the circumstances, it is believed that the issues presented under the claim rejections and drawing objection in the instant case require the same review by the BPAI. Thus, the decision by the BPAI will be critical in determining whether or not the drawings should be accepted and entered. This petition is dismissed and deferred to the BPAI as the issue as a whole is appealable and should not be decided by petition.

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. Because there were objections to the drawings under 37 CFR 1.83(a) and a rejection to claims at issue under 35 USC § 112, the overall issue is appealable and the new matter issues related to amended Figs. 2 and 6 will not be decided by petition.

The application is being forwarded to the Examiner via the Supervisory Patent Examiner of Art Unit 3754 awaiting the applicant's response to the outstanding Office action mailed on March 23, 2012. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-3468.

PETITION DISMISSED

Donald T. Hajec, Director
Technology Center 3700

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999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

MAILED

SEP 2 4 2010

OFFICE OF PETITIONS

In re Application :
Yu Shi et al. :
Application No. 11/532,361 : DECISION ON APPLICATION
Filed: December 15, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **25040-1831** :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed February 10, 2010. Applicant requests that the determination of patent term adjustment be corrected to at least 448 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **DISMISSED**.

On August 4, 2009 applicants filed a response to the non-final Office action mailed February 5, 2009. Applicants acknowledge that the response was not timely filed but argues that the delay in filing the response was "unavoidable" and thus the 91 day delay should be excused.

As a basis for their argument, petitioner cites M.P.E.P. § 2734[2] (emphasis added) which states;

---

[1]For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

[2]The "due care" of a reasonably prudent person standard has been applied in deciding petitions under the "unavoidable delay" standard of 35 U.S.C. 133. See *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912) ("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") (quoting and adopting *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33); see also *Ray v. Lehman*, 55 F.3d 606, 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) ("in determining whether a delay was unavoidable, one looks to whether the party exercised the due care of a reasonably prudent person"). While the legislative history of the American Inventors Protection Act of 1999 is silent as to the meaning of the phrase "in spite of all due care," the phrases "all due care" and "unable to respond" invoke a higher degree of care than the ordinary due care standard of 35 U.S.C. 133, as well as the "reasonable efforts to conclude processing or examination [or prosecution] of an application" standard of 35 U.S.C. 154(b)(2)(C)(i) and (iii). Therefore, applicants should not rely upon decisions relating to the "unavoidable delay" standard of 35 U.S.C. 133 as controlling in a request to reinstate reduced patent term adjustment on the basis of a showing that the applicant was unable to respond within the three-month period in spite of all due care.

> "Filing a reply outside of three months after an Office Action is per se a failure to engage in reasonable efforts to conclude prosecution . . . unless applicant can establish that the delay was 'in spite of all due care.'"

Pursuant to 37 CFR 1.705(c) Any application for patent term adjustment under this section that requests reinstatement of all or part of the period of adjustment reduced pursuant to §1.704(b) for failing to reply to a rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must also be accompanied by:

(1) The fee set forth in § 1.18(f); and

(2) A showing to the satisfaction of the Director that, in spite of all due care, the applicant was unable to reply to the rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request. The Office shall not grant any request for reinstatement for more than three additional months for each reply beyond three months from the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request.

In this instance, applicants state that the delay was necessitated by the experimentation required to provide comparative tests of the closest prior art in responding to the outstanding Office Action. Specifically, Applicants respectfully submit that additional time was required to obtain the comparative experimental data set forth in the Declaration under 37 C.F.R. 1.132 by Robert Kriegel dated July 31, 2009)). Applicants merely state that it took additional time without any explanation as to why they needed that time or could not obtain the Kriegel declaration within 3 months (in spite of due care).

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 357 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that

the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Melanie A. Alshab et al	:	DECISION GRANTING STATUS
Application No. 11/532,450	:	UNDER 37 CFR 1.47(a)
Filed: September 15, 2006	:	
Attorney Docket No. RHY-P007-01	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 5, 2007.

The petition is **GRANTED.**

The Office regrets the delay in replying to the above matter.

Petitioner has shown that the non-signing inventor 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 Technology Center AU 2192 to await a reply to the Office action of July 26, 2010.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Georges Samake :
Application No. 11/532,563 : DECISION ON PETITION
Filed: September 18, 2006 :
Attorney Docket No. AudioCodecGSA :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed October 12, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to file a **proper** reply in a timely manner to the Final Office action mailed December 24, 2009, which set a Shortened Statutory Period for reply of three (3) months from the mail date of the Office action. An advisory action was mailed on July 9, 2010. A Notice of Abandonment was mailed on September 24, 2010.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner files the above petition and states the below:

- "Final reject mail date: December 24, 2009
My response was received at time by USPTO

- Advisory action mail date: July 9, 2010
with period for reply to expire 3months from the mailing date of the final reject.

The abandonment was unavoidable.

- Furthermore, my response raised new issues that require further consideration and/or search the examiner.

I am waiting for the results."

Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence that is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). In this regard, the response received by the USPTO on March 23, 2010 is not a proper reply because the amendment raises new issues that would require further consideration by the examiner. Even though, an advisory action was mailed on July 9, 2010, the fact remains that a **proper** reply was not timely submitted to the final Office action mailed December 24, 2009. Petitioner's failure to submit a proper and timely reply is not unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), since this could have been avoided by the due care and exercise of a prudent and careful person in relation to his most important business. *See* Ex parte Pratt, *supra;* and Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

In view of the above, petitioner has not carried his burden of proof in establishing that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the petition will not be granted under the provisions of 37 CFR 1.137(a).

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the petition fee in compliance with 37 CFR 1.17(m).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEORGES SAMAKE
16, RUE COPERINC
PONTAULT COMBAULT 77340 FR FRANCE

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application of :
Georges Samake :
Application No. 11/532,563 : ON PETITION
Filed: September 18, 2006 :
Attorney Docket No. AudioodecGSA :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to file a **proper** reply in a timely manner to the Final Office action mailed December 24, 2009, which set a Shortened Statutory Period for reply of three (3) months from the mail date of the Office action. An advisory action was mailed on July 9, 2010. A Notice of Abandonment was mailed on September 24, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (2).

As to item (2), the credit card submitted for payment on April 12, 2011, was declined. Therefore, the required petition fee ($810.00 (small entity)) is missing.

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

LAW OFFICES OF CHARLES GUENZER
ATTN: APPLIED MATERIALS, INC.
2211 PARK BOULEVARD
P.O. BOX 60729
PALO ALTO CA 94306

MAILED

OCT 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Andreas G. Hegedus	:	
Application No. 11/532,651	:	DECISION GRANTING PETITION
Filed: September 18, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AM-9288-D1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 26, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2812 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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Pequignot + Myers LLC
90 North Coast Highway 101
Suite 208
Encinitas CA 92024

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AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Feve et al. :
Application No. 11/532697 :
Filing or 371(c) Date: 09/18/2006 :
Attorney Docket Number: :
78591 (18-220 US) : ON PETITION

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed April 14, 2010. Petitioner requests alternative treatment of the petition under 37 CFR 1.137(b), for Revival of an Application for Patent Abandoned Unintentionally.

This Petition Under 37 C.F.R. § 1.137(a) is hereby **dismissed**.

This Petition Under 37 C.F.R. § 1.137(b) is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 8, 2009. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on October 9, 2009.

The present petition under 37 CFR 1.137(a)

Petitioner files the present petition and avers non-receipt of the Office action.

A Grantable Petition 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), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any

earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

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. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he 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).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable

[will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

As to item **(3)**, a showing of non-receipt of an Office action may provide the basis for revival of an application based upon unavoidable delay.

The MPEP provides:

> The showing required to establish non-receipt of an Office communication must include a statement from the practitioner[3] 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

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[3] Petitioner is advised that the decision to proceed without the services of a registered practitioner places Petitioner in the position of a registered practitioner, and does not relieve Petitioner of the responsibility of knowing and complying with the applicable statute, rules pf practice and Manual of Patent Examining Procedure.

following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

MPEP 711.03(c)

Analysis

Applicant has failed to provide copies of his master docket, where the nonreceived Office action (Notice) would have been entered had it been received[4]. The petition is dismissed without prejudice. Applicant/Petitioner should file a request for reconsideration and include the necessary statement(s) and copies of his records.

Conclusion

The petition is dismissed.

Petition under 37 CFR 1.137(b)

Applicant files the present petition, and an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2828 for processing of the reply to the Office action filed with the petition, in the normal course of business.

The balance of the fee for the petition under 37 CFR 1.137(b) has been charged to Petitioner's deposit account as authorized in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DW/

Derek Woods
Attorney
Office of Petitions

[4] 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

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11532731
Filing Date	18-Sep-2006
First Named Inventor	Mark Falahee
Art Unit	3775
Examiner Name	MATTHEW LAWSON
Attorney Docket Number	33939/51
Title	STEERABLE INTERBODY FUSION CAGE

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32642

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 102983

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/R. Whitney Johnson/
Name	R. Whitney Johnson
Registration Number	62997

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : February 13, 2012

In re Application of :

Mark Falahee

Application No : 11532731

Filed : 18-Sep-2006

Attorney Docket No : 33939/51

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed February 13, 2012

The request is **APPROVED**

The request was signed by R. Whitney Johnson (registration no. 62997) on behalf of all attorneys/agents associated with Customer Number 32642 . All attorneys/agents associated with Customer Number 32642 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 102983 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/23/11

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11532835 Patent No.: 7974435

CofC mailroom date: 08/17/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[redacted]

Note: _____

_____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **X Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Bhavesh Mehta/

2624

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

MAILED
AUG 03 2010
OFFICE OF PETITIONS

In re Application of :
Daniel L. Carter, et al. :
Application No. 11/532,931 : DECISION ON PETITION
Filed: September 19, 2006 :
Attorney Docket No. 2003-0781.04 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 4, 2010. Accordingly, the date of abandonment of this application is April 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 12 2012
OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Michael BASARAI :
Application No. 11/533,194 : DECISION ON PETITION
Filed: September 19, 2006 :
Attorney Docket No. 1332.008US2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 25, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 26, 2011. An Abandonment Notice was mailed November 30, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $930; 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1611 for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (dc)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Hajima Kimura	:	
Application No. 11/533,221	:	DECISION GRANTING PETITION
Filed: September 19, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-0019002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 19, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 9, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2679 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Application of :
Anthony V. Pugliese, III et al :
Application No. 11/533,257 : DECISION ON PETITION
Filed: September 19, 2006 :
Attorney Docket No. S255 1020.2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 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 above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application (Notice) mailed October 10, 2006. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 11, 2006.

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 lack items (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 11, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no

effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as John J. Timar was counsel of record at the time of abandonment, John J. Timar should explain why this application became abandoned while it was under his control and what efforts he made to further reply of itself and with whom this matter was discussed outside of John J. Timar. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Notice are required from responsible person(s), John J. Timar and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Notice. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27,

2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLANK ROME LLP
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PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of :
Anthony V. Pugliese, III et al :
Application No. 11/533,257 : ON PETITION
Filed: September 19, 2006 :
Attorney Docket No. S255 1020.2 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 8, 2011, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	LUNJIAM MU.	
Appln. No.:	11/533,271	Examiner: Vu, Huy Duy
Filed:	September 19, 2006	Art Unit: 2461
For:	METHOD FOR TRANSMITTING DEFERRED MESSAGES	Confirmation No.: 4175
Attorney Docket No.:	HUAW01-11581	
Client Ref:	0511581US	

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR SPECIAL STATUS UNDER 37 C.F.R. §1.102 FILED IN CONNECTION WITH A LETTER OF EXPRESS ABANDONMENT UNDER 37 C.F.R. §1.138(A) AS REQUIRED UNDER THE BACKLOG REDUCTION STIMULUS PLAN

Sir:

Applicants hereby request Special Status under 37 C.F.R. §1.102 to expedite processing above-identified U.S. Patent Application Serial No. 11/533,271 under the Patent Application Backlog Reduction Stimulus Plan. In support of this request and petition, Applicants state:

I. Applicants have submitted a letter of Express Abandonment of U.S. Patent Application Serial No. 12,463,004 under 37 C.F.R. §1.138(a) as required under the Patent Application Backlog Reduction Stimulus Plan.

   a. The Application for which express abandonment is requested is U.S. Patent Application Serial No. 12,463,004 filed on May 8, 2009. Accordingly, this Application has a filing date earlier than October 1, 2009.

   b. The Application for which special status is requested is U.S. Patent Application Serial No. 11/533,271 filed on September 19, 2006. Accordingly, this Application has a filing date earlier than October 1, 2009.

c. U.S. Patent Application Serial Nos. 12/463,004 and 11/533,271 are commonly owned by Huawei Technologies Co., LTD. The Applications were commonly owned on October 1, 2009.

II. Applicants submit and affirm that Applicants have not and will not file a new application that claims this same invention under any provision of Title 35 U.S.C.

III. Applicants submit and affirm that Applicants have not received special status for more than fourteen (14) other applications under this program.

IV. Applicants agree to not request a refund of any fees paid in this application.

V. Applicants agree to make any required election without traverse in a telephonic interview if the Office determines that the claims of U.S. Application Serial No. 11/533,271 to be afforded special status are directed to two or more independent and district inventions.

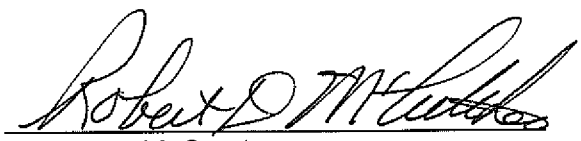
While Applicants believe that no fees are due in connection with this request, Applicants direct the Office to charge the deposit account identified herewith for any fees deemed owed.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK CARTER, LLP

Date: 8/25/2010



Robert D. McCutcheon
Registration No. 38,717

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Dallas, Texas 75380
(972) 628-3632 (direct dial)
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: *rmccutcheon@munckcarter.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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OFFICE OF PETITIONS

Docket Clerk/HTCL
P.O. Drawer 800889
Dallas TX 75380

In re Application of :
MU :
Application No. 11/533,271 :
Filed: September 19, 2006 :
Attorney Docket No. **HUAW01-11581** :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed August 25, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009) and 75 Federal register Notice 36063 (June 24, 2010).

The petition is **DISMISSED**.

Any request for reconsideration of this decision should include a cover letter entitled "Renewed Petition under 37 CFR 1.102." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 and 75 FR 36063 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) include a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application;

b) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the expressly abandoned application under any provision of title 35, United States Code, and

c) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought that

a) includes a specific identification of the relationship between the applications that qualifies the application for special status;

b) identifies, by application number if available, the application that is being expressly abandoned;

c) provides a statement certifying that applicant has not filed petitions in more than fourteen (14) other applications requesting special status under this program; and

d) provides a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The petition lacks Item 4b above.

More specifically, the letter of express abandonment filed in Application No. 12/473,599, does not include the required statement that the applicant has not and will not file an application that claims the benefit of the expressly abandoned application under any provision of title 35, United States Code. As such, the present petition to make special 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to Brian W. Brown at 571-272-5338.

All other inquiries concerning either examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2461 for action in its regular turn.

Brian W. Brown
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	LUNJIAM MU.	
Appln. No.:	11/533,271	Examiner: Vu, Huy Duy
Filed:	September 19, 2006	Art Unit: 2461
For:	METHOD FOR TRANSMITTING DEFERRED MESSAGES	Confirmation No.: 4175
Attorney Docket No.:	HUAW01-11581	
Client Ref:	0511581US	

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. §1.102

Sir:

Applicants hereby submit this Renewed Petition in response to the Decision on Petition to Make Special Under 37 C.F.R. §1.102 mailed on September 7, 2010. In the Decision, the original petition was dismissed due to the lack of a statement (identified as "4b" in the Decision) in the express abandonment filed in U.S. Patent Application No. 12/463,004.

Applicants have submitted a new letter of Express Abandonment of U.S. Patent Application Serial No. 12/463,004 under 37 C.F.R. §1.138(a), and this letter includes the omitted statement – that the applicants have not and will not file an application that clams benefit to U.S. Patent Application Serial No. 12/463,004. Attached is a copy of the transmittal letter and letter of express abandonment filed in U.S. Patent Application Serial No. 12/463,004. (Applicants note that the Serial No. of the application which Applicants have expressly abandoned is 12/463,004, and not 12/473,599 as noted in the Decision, bottom of page 2).

While Applicants believe that no fees are due in connection with this request, Applicants direct the Office to charge the deposit account identified herewith for any fees deemed owed.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK CARTER, LLP

Date: 10/7/2010

Robert D. McCutcheon
Registration No. 38,717

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(972) 628-3632 (direct dial)
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E-mail: *rmccutcheon@munckcarter.com*

Electronic Acknowledgement Receipt

EFS ID:	8456436
Application Number:	12463004
International Application Number:	
Confirmation Number:	8653
Title of Invention:	METHOD, SYSTEM AND DEVICE FOR INQUIRING A TELEPHONE BOOK
First Named Inventor/Applicant Name:	Zhou YU
Customer Number:	93823
Filer:	Gustavo Siller Jr./Magdalena Pieczonka
Filer Authorized By:	Gustavo Siller Jr.
Attorney Docket Number:	13674-302
Receipt Date:	20-SEP-2010
Filing Date:	08-MAY-2009
Time Stamp:	17:38:01
Application Type:	Utility under 3S USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		13674-302Abandon.PDF	145428 0b4 fe0575fbc850ef7a8043f77ffb477f6f92d59	yes	4

CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: September 20, 2010 Name: Gustavo Siller, Jr. Signature: /Gustavo Siller, Jr./

BRINKS HOFER GILSON & LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	ZHOU YU ET AL.		
Appln. No.:	12/463,004	Examiner:	NOT YET ASSIGNED
Filed:	May 8, 2009	Art Unit:	2614
For:	METHOD, SYSTEM AND DEVICE FOR INQUIRING A TELEPHONE BOOK	Conf. No.:	8653
Attorney Docket No.:	13674-302		
Client Ref. No.:	0614850US		

TRANSMITTAL

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Attached is/are:

☒ Transmittal; Supplemental and Substitute Letter of Express Abandonment .

Fee calculation:

☐ No additional fee is required.

☐ Small Entity.

☐ An extension fee in an amount of $_____ for a _____-month extension of time under 37 CFR § 1.136(a).

☐ A petition or processing fee in an amount of $_____ under 37 CFR § 1.17(_____).

☐ An additional filing fee has been calculated as shown below:

						Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra		Rate	Add'l Fee	OR	Rate	Add'l Fee
Total		Minus				x $26=			x $52=	
Indep.		Minus				x 110=			x $220=	
First Presentation of Multiple Dep. Claim						+$195=			+ $390=	
						Total	$		Total	$

Fee payment:

☐ Please charge Deposit Account No. 23-1925 in the amount of $_____ for _____.

☐ Payment by credit card in the amount of $_____ (Form PTO-2038 is attached).

☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

September 20, 2010
Date

/Gustavo Siller, Jr./
Gustavo Siller, Jr. (Reg. No. 32,305)

BRINKS HOFER GILSON & LIONE

CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: September 20, 2010 Name: Gustavo Siller, Jr. Signature: /Gustavo Siller, Jr./

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:	ZHOU YU ET AL.	
Appln. No.:	12/463,004	Examiner: Unknown
Filed:	May 8, 2009	Art Unit: 2614
For:	METHOD, SYSTEM AND DEVICE FOR INQUIRING A TELEPHONE BOOK	Confirmation No.: 8653
Attorney Docket No.:	13674-302	
Client Ref:	0614850US	

MAIL STOP EXPRESS ABANDONMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUBSTITUTE AND SUPPLEMENTAL LETTER OF EXPRESS ABANDONMENT UNDER 37 C.F.R. §1.138(A) FILED IN CONNECTION WITH A PETITION FOR SPECIAL STATUS UNDER 37 C.F.R. §1.102 AS REQUIRED UNDER THE BACKLOG REDUCTION STIMULUS PLAN

Sir:

Applicants hereby request Express Abandonment of U.S. Patent Application Serial No. 12/463,004 under 37 C.F.R. §1.138(a) in order to obtain Special Status under 37 C.F.R. §1.102 and expedite processing of commonly-owned, co-pending U.S. Patent Application Serial No. 11/533,271 under the Patent Application Backlog Reduction Stimulus Plan. In support of this request and petition, Applicants state:

I. The Application for which express abandonment is requested is U.S. Patent Application Serial No. 12/463,004 filed on May 8, 2009. Accordingly, this Application has a filing date earlier than October 1, 2009.

II. The Application for which special status is requested is U.S. Patent Application Serial No. 11/533,271 filed on September 19, 2006. Accordingly, this Application has a filing date earlier than October 1, 2009.

III. U.S. Patent Application Serial Nos. 12/463,004 and 11/533,271 are commonly owned by Huawei Technologies Co., LTD. The Applications were commonly owned on October 1, 2009.

IV. Applicants submit an executed Form PTO/SB/24, petition of Express Abandonment under C.F.R. §1.138(a), contemporaneously with the Letter and Petition discussed herein. The petition of Express Abandonment under C.F.R. §1.138(a) requests abandonment of above-identified U.S. Patent Application No. 12/463,004.

V. Applicants submit a petition for Special Status under 37 C.F.R. §1.102(a) in connection with U.S. Patent Application Serial No. 11/533,271 as required under the Patent Application Backlog Reduction Stimulus Plan. The petition states:

a. Applicants submit and affirm that Applicants have not and will not file a new application that claims this same invention under any provision of Title 35 U.S.C.;

b. Applicants agree to not request a refund of any fees paid in this application.

c. Applicants submit and affirm that Applicants have not received special status for more than fourteen (14) other application under this program.

d. Applicants agree to make any required election without traverse in a telephonic interview if the Office determines that the claims of U.S. Application Serial No. 11/533,271 to be afforded special status are directed to two or more independent and district inventions.

e. Applicants have not and will not file an application that claims benefit to U.S. Patent Application Serial No. 12/463,004 under any provision of Title 35, United States Code.

While Applicants believe that no fees are due in connection with this request, Applicants direct the Office to charge Applicant's Deposit Account for any fees deemed owed.

Respectfully submitted,
BRINKS HOFER GILSON & LIONE

Dated: September 20, 2010

BY: /Gustavo Siller, Jr./
Gustavo Siller Jr., Reg. No. 32,305

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Docket Clerk/HTCL
P.O. Drawer 800889
Dallas TX 75380

In re Application of :
MU :
Application No. 11/533,271 :
Filed: September 19, 2006 :
Attorney Docket No. **HUAW01-11581** :

DECISION ON
RENEWED PETITION
TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the Renewed Petition under 37 CFR 1.102, filed October 7, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009) and 75 Federal register Notice 36063 (June 24, 2010).

The Renewed Petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 and 75 FR 36063 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) include a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application;

b) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the

expressly abandoned application under any provision of title 35, United States Code, and

c) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought that

a) includes a specific identification of the relationship between the applications that qualifies the application for special status;

b) identifies, by application number if available, the application that is being expressly abandoned;

c) provides a statement certifying that applicant has not filed petitions in more than fourteen (14) other applications requesting special status under this program; and

d) provides a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The instant petition complies with the conditions required under Patent Application Backlog Reduction Stimulus Plan. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Brian W. Brown at 571-272-5338.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Office of Patent Application Processing for further processing commensurate with this decision.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

APR 04 2011

OFFICE OF PETITIONS

Mr. Herbert Joe
P.O. Box 980608
Park City, Utah 84098

In re Application of	:	
Ed BRIGHT	:	ON PETITION
Application No. 11/533,486	:	
Filed: September 20, 2006	:	
Atty. Docket No.: Bright Grill	:	

This is a decision on the petition, filed January 10, 2011 and further supplemented January 13, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The application became abandoned for failure to appropriately reply in a timely manner to nonfinal Office rejection mailed October 26, 2009, which set a statutory period for reply of three (3) months. A one (1) month's extension of time under 37 CFR 1.136 (a) was obtained. The application thus became abandoned on February 27, 2010, and a Notice of Abandonment was mailed October 6, 2010.

Petition asserts that the nonfinal Office rejection was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP §711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of 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 ($810 for small entity).

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).

Lastly, petitioner asserts a response was filed on February 26, 2010. However, as set forth in the Office letter mailed April 5, 2010, the response was deemed noncompliant, and therefore the response was, and still is, improper.

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).

/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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SEP 26 2011

OFFICE OF PETITIONS

Mr. Herbert Joe
P.O. Box 980608
Park City, Utah 84098

In re Application of :
Ed BRIGHT : ON PETITION
Application No. 11/533,486 :
Filed: September 20, 2006 :
Atty. Docket No.: Bright Grill :

This is in response to the petition under 37 CFR 1.137(b), filed May 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to appropriately reply in a timely manner to the Notice of Non-compliant Amendment mailed April 5, 2010 (Notice), which set a shortened statutory period for reply of one (1) month. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned May 6, 2010. A Notice of Abandonment was mailed October 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 Notice mailed April 5, 2010, (2) a petition fee of $810, and (3) a statement of unintentional delay. The response to the Notice is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Application No. 11/533,486

The application will be referred to Technology Center Art Unit 3742 for consideration of the filed Response.

Anthony Knight
Director
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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Advent IP, P.C., L.L.O.
2425 South 144th Street
Suite 202
Omaha NE 68144-3282

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NOV 15 2010

OFFICE OF PETITIONS

In re Application of :
Delaney :
Application No. 11/533,512 : DECISION ON PETITION
Filed: September 20, 2006 :
Attorney Docket No. 50325.0005US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a Notice Requiring Excess Claims Fees, which was mailed on December 29, 2009. The Notice set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 30, 2010. A Notice of Abandonment was mailed on August 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 excess claim fee, (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) 272-3215.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re	:	
Bazin, et al.	:	
Application No. 11/533,643	:	DECISION ON APPLICATION
Filed: September 20, 2006	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 8970.95257	:	

This is a decision on the "PETITION", filed January 11, 2010, which is being treated as an application for patent term adjustment under 37 CFR 1.705(b). Applicants believe that they should be accorded additional PTA, in part on the basis that the Office will take in excess of three years to issue the patent.

The application for patent term adjustment under § 1.705(b) is **DISMISSED**. Applicants did not pay the required $200 PTA fee as set forth in 37 CFR 1.18(e). As such, the Office will not look into the matter on the merits.

Applicants are reminded that the Office does not assess whether or not any additional PTA is accorded for failure to issue a patent within three years from filing until after the issue date is established.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Director
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Patent of Margulis :
Patent No. 7,877,690 :
Issued: January 25, 2011 :
Application No. 11/533,738 : ON APPLICATION FOR
Filed: September 20, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 07844-795001/P696 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d), filed March 24, 2011. Patentees request that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred five (205) days.

The petition is **GRANTED TO THE EXTENT INDICATED HEREIN.**

On January 25, 2011, the above-identified application matured into U.S. Patent No. 7,877,690. The instant request for reconsideration filed March 24, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 59 days.

In complying with his duty of good faith and candor to the Office, patentee discloses that the Office failed to assess a reduction in connection with the February 9, 2007 reply to the Notice to File Corrected Application Papers, mailed October 10, 2006. A review of the record reveals that pursuant to 37 CFR 1.704(b), a period of reduction of 30 days should have been entered. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be

> deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, applicant did fail to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice to File Corrected Application Papers, mailed October 10, 2006, within the three-month period provided for in 37 CFR 1.704(b). Applicant did not file a complete and proper response until February 9, 2007. Accordingly, a period of reduction of 30 days is being entered for the period beginning on January 11, 2007, the day after the date that is three months after the date of mailing of the Notice, and ending on February 9, 2007, the date applicant's reply was filed.

Patentee discloses the Office failed to properly calculate the length of the delay associated with the filing of formal drawings on September 7, 2010, subsequent to the mailing of the Notice of Allowance on July 22, 2010. This was properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

> 37 CFR § 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in

> response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

Under the circumstances, the period of reduction is properly calculated as 120 days or four months because the Office never mailed a notice in response to the formal drawings filed on September 7, 2010. Accordingly, a period of reduction of 120 days is being entered.

Patentee discloses the Office failed to properly calculate the length of the delay associated with the filing of a Rule 312 amendment on September 23, 2010, subsequent to the mailing of a Notice of Allowance. The Office concurs. Pursuant to § 1.704(c)(10), the period of reduction is properly calculated as ninety-nine (99) days, counting the number of days in the period beginning on the date the Rule 312 amendment was filed, September 23, 2010, and ending on December 30, 2010, the date the Office mailed a response to the Rule 312 amendment. However, since the 99 day period completely overlaps with a portion of the reduction already assessed for the formal drawings, filed September 7, 2010, the 99 day reduction will not impact the total PTA for the application.

Patentee argues the Office improperly calculated the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). Patentee acknowledges a Request for Continued Examination ("RCE") was filed on July 6, 2009. Patentee argues that the mailing of the Notice of Allowance on July 22, 2010 closed examination of the application. Thus, patentee argues no continued examination took place during the 188 day period from July 22, 2010 to January 25, 2011, the issue date of the patent. Patentee requests the Office add 188 minus two overlapping days between A Delay and B Delay periods to the 0 days of B Delay.

However, per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Per the language of 37 CFR 1.703(b)(1):

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C.

> 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

As stated above, the number of days beginning on the date a RCE was filed and ending on the issuance date of the patent are not included in the B Delay period. The maximum B Delay in this case is 0 days, because a RCE was filed prior to the day after three years after the application's filing date. The filing of the first RCE cuts off accumulation of any additional period of adjustment for the over three year calculation. All days from the date the first RCE was filed to the date of issuance are not included, per 37 CFR 1.703(b)(1).

The patent term adjustment is twenty-one (21) days, which is the sum of 201 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 0 days of B Delay, reduced by 180 (30 + 30 + 120) days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of

the above-identified patent is extended or adjusted **by twenty-one (21)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,877,690 B2

DATED : **January 25, 2011** **DRAFT**

INVENTOR(S) : Margulis

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 59 days

Delete the phrase "by 59 days" and insert – by 21 days--

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AUG 25 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent of Margulis	:	FINAL AGENCY DECISION
Patent No. 7,877,690	:	ON
Issue Date: January 25, 2011	:	REQUEST FOR RECONSIDERATION
Application No. 11/533,738	:	OF
Filed: September 20, 2006	:	DECISION ON APPLICATION
Attorney docket: 07844-795001 / P696	:	FOR PATENT TERM ADJUSTMENT
For: MEDIA SYSTEM WITH INTEGRATED CLIP VIEWS		

This is a decision on the "RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT" filed June 8, 2011, requesting reconsideration of the decision of May 9, 2011, and requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) in the decision of May 9, 2011, be changed from 21 days to 207 days.

Patentee requests that the decision on this renewed request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Abbott Biotherapeutics Corp. v. Kappos. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of the decision of May 9, 2011, is granted to the extent that the decision of May 9, 2011, 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 21 days indicated in the decision of May 9, 2011. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. 704 and for purposes of seeking judicial review. See MPEP §1002.02.

BACKGROUND

On January 25, 2011, the above-identified application matured into U.S. Patent No. 7,877,690, with a revised patent term adjustment of 59 days. On March 24, 2011, Patentee timely submitted a petition for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 205 days. On May 9, 2011, the Office mailed a decision indicating the patent term adjustment is 21 days and affording Patentee with a 30 day/1 month period to contest the decision. Patentee timely filed the present petition on June 8, 2011. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on July 22, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 188 day period from July 22, 2010(the mailing date of the Notice of Allowance) until January 25, 2011 (the date the patent was issued). It is noted that Patentee has subtracted 2 days (January 24, 2011 to January 25, 2011) of overlapping A delay from the total of 188 days. As such, Patentee maintains that the "B delay" should include the 186 days and be increased from 0 to 186 days. Patentee concludes that the correct patent term adjustment is 207 days (the sum of 201 days of "A delay" and 188 days of "B delay" minus 2 days of overlap between "A delay" and "B delay" minus 180 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on September 20, 2006 and the patent not having issued as of the day after the three year date, September 21, 2009, and a request for continued examination being filed on July 6, 2009. In other words, the 188-day period beginning on the date of mailing of the notice of allowance to the date of

issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term.

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to

issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the

mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance.

Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of

[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 request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on July 6, 2009, and the patent issued by virtue of that request on January 25, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 6, 2009 and ending on January 25, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is **DENIED**.

The patent term adjustment remains 21 days, as indicated in the decision of May 9, 2011. The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. It is noted a draft certificate of correction was enclosed with the May 9, 2011 decision. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by twenty-one (21)** days.

Deposit account no. 06-1050 will be refunded the $200.00 petition fee submitted with the instant petition, as Patentee has previously paid the $200.00 petition fee on March 24, 2011.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Director, Office of Petitions

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United States Patent and Trademark Office
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In re Application of :
Hovers, et al. :
Application No. 11/533,817 : ON APPLICATION FOR
Filed: September 21, 2006 : PATENT TERM ADJUSTMENT
Docket No. 07-665-C :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 30, 2010. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. The request will be treated as a petition under 37 CFR 1.705(b).

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **three hundred sixty-two (362) days.** A copy of the revised PALM screen, showing the correct determination, is enclosed.

On April 7, 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 is 410 days. On June 30, 2010, applicants submitted the instant petition. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated. Applicants provide two reasons for their request. First, applicants assert the Office failed to properly account for applicant delay in responding to the October 17, 2006 Notice to File Missing Parts of Nonprovisional Application. Second, applicants assert the Office failed to enter a reduction for a supplemental paper, an Information Disclosure Statement, filed on February 7, 2008

after applicants filed a reply on January 8, 2010 to the October 13, 2009 non-final Office action.

With respect to applicants' first argument, applicants are informed that 58 days is the proper period of reduction assessed in connection with the delay in responding to the October 17, 2006 Notice to File Missing Parts of Nonprovisional Application (Notice). The Office mailed a Notice on October 17, 2006. On January 23, 2007, applicants filed a reply. Under 37 CFR 1.704(b), the period of adjustment of the term of the patent was reduced by 6 days, counting the number of days in the period beginning on the day after the date that is three months after the mailing date of the Notice, January 18, 2007, and ending on the date the reply was filed, January 23, 2007.

However, the January 23, 2007 reply was not a complete reply to the October 17, 2006 Notice. 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

On January 23, 2007, applicants filed a reply to the October 17, 2006 Notice. The January 23, 2007 reply was not complete. The response correcting the omission was not filed until March 16, 2007. The 52 day period of applicant delay is calculated beginning on the day after the date the initial reply was filed, January 24, 2007, and ending on the date that a complete reply was filed, March 16, 2007. Thus, entry of a period of reduction of 52 days pursuant to 37 CFR 1.704(c)(7) was warranted.

These two periods of reduction, added together, total 58 days (6 + 52). Therefore, no change in the patent term adjustment is warranted in connection with applicants' responses to the October 17, 2006 Notice.

With respect to applicants' second argument, the Office concurs that the Office failed to enter a reduction for a supplemental reply or paper in the form of an Information Disclosure Statement filed on February 25, 2010. After applicants filed a reply on January 8, 2010 to the October 13, 2009 non-final Office action, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on February 25, 2010. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed February 25, 2010, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 48 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, January 9, 2010, and ending on the date that the IDS was filed, February 25, 2010. Accordingly, a period of reduction of 48 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **three hundred sixty-two (362) days** (559 days of Office delay - 197 [58+91+48] days of applicant delay).

The fee under 37 CFR 1.18(e) will be charged to deposit account no. 13-2490.

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 applicant will be notified in the

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[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Saturday
Date: 8/14/2010

PALM INTRANET

Time: 14:44:45

PTA Calculations for Application: 11/533817			
Application Filing Date:	09/21/2006	PTO Delay (PTO):	559
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	149
Post-Issue Petitions:	0	Total PTA (days):	362
PTO Delay Adjustment:	-48		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
81	08/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		48	
72	04/07/2010	MAIL NOTICE OF ALLOWANCE			
71	04/06/2010	ISSUE REVISION COMPLETED			
70	04/06/2010	DOCUMENT VERIFICATION			
69	04/06/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	04/06/2010	NOTICE OF ALLOWABILITY			
65	01/08/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	02/25/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	02/25/2010	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
62	02/25/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	02/04/2010	PARALEGAL TD ACCEPTED			
60	01/08/2010	TERMINAL DISCLAIMER FILED			
59	02/03/2010	DATE FORWARDED TO EXAMINER			
58	01/08/2010	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
57	01/25/2010	MAIL NOTICE OF REQUIRED FEES DUE			
56	01/25/2010	NOTICE OF ADDITIONAL FEE DUE			
55	01/20/2010	DATE FORWARDED TO EXAMINER			
54	01/08/2010	RESPONSE AFTER NON-FINAL ACTION			
53	01/08/2010	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
52	01/08/2010	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
51	09/23/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		91	43
50	10/13/2009	MAIL NON-FINAL REJECTION			
49	10/13/2009	NON-FINAL REJECTION			
48	09/23/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	03/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	02/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	09/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	07/31/2009	DATE FORWARDED TO EXAMINER			
43	06/24/2009	RESPONSE AFTER NON-FINAL ACTION			
42	06/02/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	559		-1
41	06/01/2009	MISCELLANEOUS ACTION WITH SSP			
40	05/04/2009	CASE DOCKETED TO EXAMINER IN GAU			
39	04/06/2009	CASE DOCKETED TO EXAMINER IN GAU			
38	03/04/2009	CASE DOCKETED TO EXAMINER IN GAU			
37	05/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	05/08/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
35	05/06/2008	CORRESPONDENCE ADDRESS CHANGE			
34	07/12/2007	PG-PUB ISSUE NOTIFICATION			
33	07/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
32	05/02/2007	TRANSFER INQUIRY TO GAU			
31	04/30/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
30.7	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	03/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	03/16/2007	REFERENCE CAPTURE ON IDS			
28.7	02/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	02/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	02/08/2007	REFERENCE CAPTURE ON IDS			

26	04/17/2007	APPLICATION DISPATCHED FROM OIPE			
25	03/30/2007	SENT TO CLASSIFICATION CONTRACTOR			
24	03/30/2007	APPLICATION IS NOW COMPLETE			
23	03/16/2007	ADDITIONAL APPLICATION FILING FEES		58	6
22	03/16/2007	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
21	02/28/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
20	02/05/2007	CORRECTED PAPER			
19	01/23/2007	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
18	10/17/2006	PRE-EXAM OFFICE ACTION WITHDRAWN			
17	01/23/2007	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
15	09/21/2006	CLAIM PRELIMINARY AMENDMENT			
9	01/23/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	01/23/2007	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	10/17/2006	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/13/2006	CLEARED BY L&R (LARS)			
3	10/04/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	09/29/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/21/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BOSE MCKINNEY & EVANS LLP
111 MONUMENT CIRCLE, SUITE 2700
INDIANAPOLIS IN 46204

MAILED
SEP 21 2011
OFFICE OF PETITIONS

In re Application of :
Przemyslaw Zagrodzki et al. :
Application No. 11/533,852 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. 17728-0007 :

This is a decision on the Petition For Expungement of Assignment Under MPEP 323.01(d), filed August 4, 2011, which is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified application.

The petition is **granted**.

Petitioner indicates that sections of the Contributions and Purchase Agreement are proprietary but were inadvertently provided on an assignment document associated with the above-identified application. Petitioner requests that this original document containing the sensitive proprietary information be expunged. A copy of this assignment document that redacts the proprietary information without disturbing the remainder of the document's contents was recorded at reel 026819 frame 0307 to replace the original document.

While, as noted in MPEP 323, the USPTO will not normally remove a recorded document but instead records supplemental correcting documents, the sensitive nature of the proprietary information in question justifies the requested expungement. Since the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief and the integrity of the assignment records will not be affected by granting the petition due to the presence of the newly recorded redacted copy, the requested expungement is granted.

The fee for a petitioner filed under 37 CFR 1.182 has been charged to petitioner's deposit account as authorized.

The relief will be effected as follows:

(1) the USPTO will remove any and all reference "pointers" in its relevant systems to the agreement recorded at reel 023409 frame 0414, such that the agreement cannot be located by referencing any of the applications or patents associated with the above-identified application against which the agreement was formerly recorded;

(2) the copy of the assignment document that redacts the proprietary information, recorded at reel 026819 frame 0307, will be recognized as having a date of recordation of October 23, 2009, the date the original document was recorded; and

(3) the petition and decision associated with this expungement will be maintained in confidence separate from any application or patent file to protect the sensitive information, including the reel/frame numbers of the original document.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103

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SUITE 2500
ORLANDO FL 32801

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Kumar et al.	:	
Application Number: 11/533,922	:	DECISION ON PETITION
Filing or 371(c) Date: 09/21/2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number: 624226-504/183279-1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on January 21, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35

U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
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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

A reply may also be filed via the EFS-Web filing system of the USPTO.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christopher Bottorff
Supervisor
Office of Petitions

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Alexandria, VA 22313-1450
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BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Kumar et al.	:	
Application Number: 11/533,922	:	DECISION ON PETITION
Filing or 371(c) Date: 09/21/2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number: 624226-504/183279-1	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on March 30, 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 concurrently-filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3661 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christopher Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/533,922	09/21/2006	3661	1400	624226-504/183279-1	20	5

CONFIRMATION NO. 5135

CORRECTED FILING RECEIPT

29391
BEUSSE WOLTER SANKS MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

Date Mailed: 05/16/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ajith K. Kumar, Erie, PA;
Bret D. Worden, Erie, PA;

Power of Attorney: The patent practitioners associated with Customer Number 50983

Domestic Priority data as claimed by applicant

This application is a CIP of 11/008,708 12/09/2004 PAT 7,302,895

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: 10/11/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/533,922**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and Systems for Improved Throttle Control and Coupling Control for Locomotive and Associated Train

Preliminary Class

701

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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PATENT SERVICES
101 COLUMBIA ROAD
P.O.BOX 2245
MORRISTOWN NJ 07962

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Mark Heazle	:	DECISION ON PETITION TO
Application Number: 11/533934	:	WITHDRAW HOLDING OF
Filing Date: 09/21/2006	:	ABANDONMENT
Attorney Docket Number:	:	
H0007419	:	

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT," filed on June 15, 2010.

The application became abandoned on January 24, 2010, for failure to timely pay the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on October 23, 2009, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on February 12, 2010. The petition to withdraw the holding of abandonment filed on March 8, 2010 was dismissed on June 4, 2010.

Petitioner again avers that the issue fee was timely filed via facsimile on January 20, 2010. The renewed petition is accompanied by a declaration by Faisal Adnan, the individual who singed the certificate of transmission on the Fee(s) Transmittal form, as well as a copy of the Auto-Reply Facsimile Transmission return receipt received from the USPTO, showing receipt of the Fee(s) Transmittal on January 20, 2010.

37 CFR 1.8(b) states, in pertinent part:

> 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 § 1.957(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.

In view of the evidence provided (*e.g.*, the certificate of transmission, the statement attesting on a personal knowledge basis to the previous timely transmission of the Fee(s) Transmissal, the sending unit's facsimile transmission report, and the Auto-Reply Facsimile Transmission return receipt), the showing of record is that the issue fee was timely filed.

The holding of abandonment is **withdrawn**, and the notice of abandonment is **vacated**.

Receipt of the issue fee is acknowledged.

The application is referred to the Office of Data Management for processing into a patent.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed by EFS-Web.

Telephone inquiries related 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
PLAZA VII- SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Application of :
Michael John Kane, et al. :
Application No. 11/533,948 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. 115.0001US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice), mailed September 13, 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 October 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3762 for appropriate action by the Examiner in the normal course of business on the reply received May 26, 2011.

April M. Wise
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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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of :
Walsh, et al. :
Application No. 11/534,129 : DECISION ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. 2959U.004 :

This is a decision on the petition under 37 CFR 1.182, filed February 24, 2011, 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.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 3775 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/534,129	09/21/2006	3775	725	2959U.004	13	2

CONFIRMATION NO. 5445

CORRECTED FILING RECEIPT

21917
MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

OC000000047547261

Date Mailed: 05/18/2011

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)

Christopher Walsh, Parkland, FL;
Wyatt Drake Geist, Davie, FL;

Power of Attorney: The patent practitioners associated with Customer Number 21917

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 10/17/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/534,129**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

IMPLANT EQUIPPED FOR NERVE LOCATION AND METHOD OF USE

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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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LEE HONG DEGERMAN KANG & WAIMEY
660 S. FIGUEROA STREET
SUITE 2300
LOS ANGELES, CA 90017

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of :
Young C. Yoon et al :
Application No. 11/534,178 : ON PETITION
Filed: September 21, 2006 :
Attorney Docket No. 2101-3219

This is a decision on the petition, filed January 5, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 15, 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 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FRANCIS L CONTE
6 PURITAN AVENUE
SWAMPSCOTT MA 01907

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :
Lair :
Application No. 11/534,202 : ON APPLICATION FOR
Filed: September 21, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 29NORDAM2961 :

This is in response to the Application for Patent Term Adjustment under Rule 705(b), filed April 22, 2011. Applicant submits that the patent term adjustment to be indicated on the patent is at minimum one thousand sixty-nine (1069) days, not one hundred twenty-seven (127) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicant disputes the period of reduction of 619 days for applicant delay under 37 CFR 1.704(c)(8) entered for the filing of an Information Disclosure Statement (IDS) on August 7, 2008 and discloses the Office failed to properly calculate the 14 month adjustment under 37 CFR 1.702(a)(1).

To the extent that applicant 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

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, 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, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicant otherwise requests correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is five hundred seven (507) days. A copy of the updated PAIR screen, showing the determination, is enclosed.

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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.

On February 24, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 127 days. Applicant disputes the reduction of 619 days associated with the filing of an Information Disclosure Statement (IDS) on August 7, 2008. Applicant argues no reduction is in order because the IDS was timely filed before the mailing of the first Office action on the merits; and therefore no reduction is warranted.

A review of the application history reveals that on October 19, 2006 the Office mailed a notice informing applicant that the subject matter of the application appeared to have significant utility in the conduct of aeronautical and space activities. Accordingly, no patent could issue on the application unless applicant filed a statement setting forth the full facts concerning the circumstances under which the invention was made and conceived and the relationship of the invention to the performance of any work under any contract or other arrangement with NASA. A statement was due within 45 days of the mail date of the October 19, 2006 Notice. On November 27, 2006 applicant provided a statement and response. The Office incorrectly treated the October 19, 2006 letter as a first action on the merits and therefore, considered the November 27, 2006 as a reply to an Office action and therefore, treated the August 7, 2008 IDS as a supplemental response.

The Office concurs with applicant that a 45 day NASA notice is ***not*** an Office action issued as a result of examination conducted pursuant to 35 U.S.C. 131. It is not a notification under 35 U.S.C. 132. *See* MPEP 2731. Accordingly, no reduction pursuant to 1.704(c)(8) is warranted. The reduction of 619 days will be removed.

As applicant points out, the first action on the merits was mailed on July 9, 2009. Pursuant to 37 CFR 1.702(a)(1), the Office should be charged with a 596, not 835, day adjustment for the failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed. The application was filed on September 21, 2006. On July 9, 2009 the Office mailed a restriction requirement. The Office will be charged a 596 day adjustment pursuant to 37 CFR 1.702(a)(1), beginning on November 22, 2007, the day after 14 months after the application was filed, and ending on July 9, 2009, the date the restriction requirement was mailed. Accordingly the 835 day adjustment is

being removed and a 596 day adjustment is being entered under 37 CFR 1.702(a)(1).

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred seven (507) days** -- {610 (596 + 14) days Office delay minus 103 (31 + 72) days Applicant delay}.

The Office acknowledges receipt of the$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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

Enclosure: Copy of adjusted PAIR calculation

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

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11/534,202 THRUST REVERSER NOZZLE FOR A TURBOFAN GAS TURBINE ENGINE

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Published Documents | Address & Attorney/Agent | Supplemental Content

Patent Term Adjustment

Filing or 371(c) Date:	09-21-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	849
A Delays:	849	PTO Manual Adjustments:	380
B Delays:	0	Applicant Delays:	722
C Delays:	0	Total PTA Adjustments:	507

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
94	06-14-2011	Adjustment of PTA Calculation by PTO	380		0
85	02-24-2011	Mail Notice of Allowance			0
84	02-24-2011	Issue Revision Completed			0
83	02-17-2011	Document Verification			0
82	02-17-2011	Notice of Allowance Data Verification Completed			0
81	02-04-2011	Mail Examiner Interview Summary (PTOL - 413)			0
80	01-05-2011	Examiner Interview Summary Record (PTOL - 413)			0
79	01-18-2011	Examiner's Amendment Communication			0
78	01-18-2011	Allowability Notice			0
77	01-05-2011	Examiner Interview Summary Record (PTOL - 413)			0
74	01-06-2011	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
73	01-06-2011	Miscellaneous Incoming Letter			0
72	01-07-2011	Date Forwarded to Examiner			0
71	01-06-2011	Amendment after Final Rejection			0
70	12-08-2010	Mail Final Rejection (PTOL - 326)			0
69	12-06-2010	Final Rejection			0
68	09-14-2010	Date Forwarded to Examiner			0
67	09-03-2010	Response after Non-Final Action		72	62
66	09-03-2010	New or Additional Drawing Filed			0
65	09-03-2010	Request for Extension of Time - Granted			0

64	09-10-2010	Change in Power of Attorney (May Include Associate POA)			0
63	09-07-2010	Correspondence Address Change			0
62	03-23-2010	Mail Non-Final Rejection	14		44
61	03-15-2010	Non-Final Rejection			0
56	07-17-2007	Information Disclosure Statement considered			0
55	10-02-2006	Information Disclosure Statement considered			0
54	02-13-2007	Information Disclosure Statement considered			0
53	04-25-2007	Information Disclosure Statement considered			0
52	07-17-2007	Information Disclosure Statement considered			0
51	07-17-2007	Information Disclosure Statement considered			0
50	07-17-2007	Information Disclosure Statement considered			0
49	12-05-2007	Information Disclosure Statement considered			0
48	08-07-2008	Information Disclosure Statement considered			0
47	08-07-2008	Information Disclosure Statement considered			0
46	01-26-2010	Case Docketed to Examiner in GAU			0
45	11-14-2009	Date Forwarded to Examiner			0
44	11-09-2009	Response to Election / Restriction Filed		31	42
43	11-09-2009	Request for Extension of Time - Granted			0
42	07-09-2009	Mail Restriction Requirement	835		17
41	07-06-2009	Restriction/Election Requirement			0
38	11-24-2008	Case Docketed to Examiner in GAU			0
37	08-07-2008	Electronic Information Disclosure Statement		619	17
36	08-07-2008	Information Disclosure Statement (IDS) Filed			0
35	08-07-2008	Information Disclosure Statement (IDS) Filed			0
34	03-27-2008	PG-Pub Issue Notification			0
33	12-05-2007	Electronic Information Disclosure Statement			0
32	12-05-2007	Information Disclosure Statement (IDS) Filed			0
31	12-05-2007	Case Docketed to Examiner in GAU			0
30	07-17-2007	Information Disclosure Statement (IDS) Filed			0
29	07-17-2007	Electronic Information Disclosure Statement			0
28	07-17-2007	Electronic Information Disclosure Statement			0

27	07-17-2007	Electronic Information Disclosure Statement	0
26	07-17-2007	Information Disclosure Statement (IDS) Filed	0
25	07-17-2007	Information Disclosure Statement (IDS) Filed	0
24	07-17-2007	Information Disclosure Statement (IDS) Filed	0
23	07-17-2007	Information Disclosure Statement (IDS) Filed	0
22.7	04-25-2007	Electronic Information Disclosure Statement	0
22	04-25-2007	Information Disclosure Statement (IDS) Filed	0
21.7	02-13-2007	Electronic Information Disclosure Statement	0
21	02-13-2007	Information Disclosure Statement (IDS) Filed	0
20	02-28-2007	Receipt of all Acknowledgement Letters	0
19	02-28-2007	Receipt of Acknowledgment Letter	0
18	02-28-2007	Receipt of Acknowledgment Letter	0
17	11-27-2006	Applicant response received	0
16	10-19-2006	IFW TSS Processing by Tech Center Complete	0
15	10-02-2006	Reference capture on IDS	0
14.7	10-02-2006	Information Disclosure Statement (IDS) Filed	0
14	10-02-2006	Information Disclosure Statement (IDS) Filed	0
13	10-19-2006	Request for Applicant Statement Regarding Potential NASA Interest (45-Day Letter) Mailed	0
12	10-17-2006	Application Return from OIPE	0
11	10-17-2006	Application Return TO OIPE	0
10	10-16-2006	Application Dispatched from OIPE	0
9	10-17-2006	Application Is Now Complete	0
8	10-11-2006	Agency Referral Letter Mailed	0
7	10-11-2006	Agency Referral Letter Mailed	0
6	10-11-2006	Referred for NASA Property Rights review by L&R LARS	0
5	10-11-2006	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
4	10-11-2006	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
3	09-29-2006	Referred to Level 2 (LARS) by OIPE CSR	0
2	09-27-2006	IFW Scan & PACR Auto Security Review	0
1	09-21-2006	Initial Exam Team nn	0
0.5	09-21-2006	Filing date	0

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- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.*

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COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA PA 19103-2212

MAILED

JUL 08 2011

OFFICE OF PETITIONS

In re Application of

Rothstein

Application No. 11/534,225

Filed: September 22, 2006

Attorney Docket No. R11191/20001

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 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 December 31, 2009. No response was received and the application became abandoned on April 1, 2010. A Notice of Abandonment was mailed August 19, 2010.

The Request for Continued Examination filed June 20, 2011, is noted.

The application file is being forwarded to Technology Center 3700, GAU 3732 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

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APR 28 2011

OFFICE OF PETITIONS

DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

In re Application of :
Yan Li, et al. :
Application No. 11/534,297 : ON PETITION
Filed: September 22, 2006 :
Attorney Docket No.: 0084567-402US1 :

This is a decision on the petition, filed March 1, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed November 1, 2010. A Notice of Abandonment was mailed on February 18, 2011. On March 1, 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 corrected drawings; (2) the petition fee of $1,620 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed on March 1, 2011.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Patent No. : 7,986,665 B2
Serial No. : 11/534,371
Inventor(s) : Kezys et al.
Issued : July 26, 2011
Title : **CONFERENCING PSTN GATEWAY METHODS AND APPARATUS TO FACILITATE HETEROGENEOUS WIRELESS NETWORK HANDOVERS FOR MOBILE COMMUNICATION DEVICES**
Docket No. : **0108-0302/US/2**

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 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. Therefore, no correction is in order here.

In view of the foregoing, your request is hereby denied.

A petition to correct the Assignee, under 37 CFR 1.183 should include: (1) the petition fee set forth in 37 CFR 1.117(h) (currently $130); (2) the correct name and address of the assignee; (3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
Attn.: Office of Petitions

If, the petition under 37 CFR 1.183, is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), due to the mistake in not complying with CFR 3.81.

/Ernest C. White/ *LIE*
(571) 272-3385
Mary F. Diggs – Supervisor
(703) 756-1580 Decisions & Certificates of Correction Branch

John J. Oskorep, Esq. LLC
980 North Michigan Avenue, Suite 1400
One Magnificent Mile Center
Chicago IL 60611

ecw

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MAR 16 2012
OFFICE OF PETITIONS

John J. Oskorep, Esq. LLC
980 North Michigan Avenue, Suite 1400
One Magnificent Mile Center
Chicago IL 60611

In re Patent No. 7,986,665 :
Issue Date: July 26, 2011 :
Application No. 11/534,371 : ON PETITION
Filed: September 22, 2006 :
Attorney Docket No. 0108-0302/US/2 :

This is a decision on the petition filed February 28, 2012, will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(h) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by the required fee of $100 for a request of a certificate of correction, therefore petitioner has failed to comply with the provisions of 37 CFR 3.81(b). The request cannot be granted at this time.

Further correspondence with respect to this matter should be addressed as follows:

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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 way of EFS Web

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/12/2011

TO SPE OF : ART UNIT 3714 Suhol Dmitry (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/534451 Patent No.: 7963841

CofC mailroom date: 7/24/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

D. Suhol — SPE

3716 — Art Unit

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SHERIDAN ROSS P.C
1560 BROADWAY SUITE 1200
DENVER CO 80202

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OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Padilla et al.	:	
Application No. 11/534,518	:	DECISION ON PETITION
Filed: September 22, 2006	:	
Attorney Docket No. 2943-135	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely to submit Corrected Drawings on or before June 21, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 19, 2010. Accordingly, the date of abandonment of this application is June 22, 2010. A Notice of Abandonment was mailed July 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent and review of the Corrected Drawings submitted with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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FROMMER LAWRENCE & HAUG
745 Fifth Avenue, 10th Floor
New York, NY 10151

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DEC 0 1 2010

OFFICE OF PETITIONS

In re Application of	:	
John Edwards	:	
Application No. 11/534,604	:	DECISION ON PETITION
Filed: September 22, 2006	:	TO WITHDRAW
Attorney Docket No. 1361014-2002.1	:	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 November 2, 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 John W. Branch 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 October 25, 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: **Scansafe Limited**
The Connection
198 High Holborn
London, WC1V 8BD
United Kingdom

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/534,604	09/22/2006	John Edwards	1361014-2002.1

CONFIRMATION NO. 6245

20999
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

POWER OF ATTORNEY NOTICE

OC00000004719970

Date Mailed: 11/30/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2010.

- 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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W. EDWARD RAMAGE
COMMERCE CENTER, SUITE 1000
211 COMMERCE ST
NASHVILLE TN 37201

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
THURMAN	:	
Application No. 11/534,638	:	DECISION ON PETITION
Filed: September 23, 2006	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by W. Edward Ramage on behalf of the attorneys of record associated with Customer No. 44777.

The attorneys of record associated with Customer No. 44777 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address first copied below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KRISTEN L. THURMAN
1306 JOHN SHARP ROAD
SPRING HILL TN 37174

cc : W. EDWARD RAMAGE
BAKER DONELSON,
211 COMMERCE STREET, SUITE 800
NASHVILLE, TN 37201

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/534,638	09/23/2006	Kristen L. Thurman	2826506.000001

CONFIRMATION NO. 6302

44777
W. EDWARD RAMAGE
COMMERCE CENTER SUITE 1000
211 COMMERCE ST
NASHVILLE, TN 37201

POWER OF ATTORNEY NOTICE

OC00000047534800

Date Mailed: 05/05/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 17 2011

OFFICE OF PETITIONS

In re Application of
Gilbert Gonzalez, et al.
Application No. 11/534,847
Filed: September 25, 2006
Attorney Docket No. 025979-000310US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 26, 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 cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they (1) have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment, (2) have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled, (3) have notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

Petitioner should also 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, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

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

Attachment: blank copy of Request for Withdrawal as Attorney or Agent and Change of Correspondence Address and Privacy Statement

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NOV 08 2010

OFFICE OF PETITIONS

Paper No.

KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY MN 55422

In re Application of	:	
Liang et al.	:	
Application No. 11/534,872	:	DECISION ON PETITION
Filed: September 25, 2006	:	PURSUANT TO
Attorney Docket No.: USPS02-0601S(20060986ORI)	:	37 C.F.R. § 1.137(B)
Title: MASSAGING APPARATUS FOR A MASSAGE CHAIR	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed May 13, 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 14, 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 15, 2010. A Notice of Abandonment was mailed on May 3, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

§ 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the issue, publication, and petition fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 See Rule 1.137(d).

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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(ADVANCED BIONICS)WONG CABELLO
LUTSCH RUTHERFORD
& BRUCCULERI LLP
20333 TOMBALL PARKWAY
SUITE 600
HOUSTON TX 77070

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,995,771	:	DECISION ON
Faltys, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: August 9, 2011	:	AND NOTICE OF INTENT
Application No. 11/534,933	:	TO ISSUE
Filed: September 25, 2006	:	CERTIFICATE OF
Attorney Docket No. 896-0020US	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed August 12, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand two hundred fifty-three (1253) days to one thousand three hundred twenty-nine (1329) 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-nine (1329)** days.

On August 9, 2011, the above-identified application matured into U.S. Patent No. 7,995,771. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on August 12, 2011. Patentees assert that they should not have been assessed

applicant delay of one hundred (100) days for the submission of a Rule 312 Amendment on May 2, 2011, after the Notice of Allowance was mailed on March 16, 2011. Rather, Patentees assert that they should have only been assessed applicant delay of twenty-four (24) 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 2, 2011, and the Office mailed a Supplemental Notice of Allowability in response to the Rule 312 Amendment on May 25, 2011. Accordingly, Applicants should have been accorded 35 days of delay for the filing of the Rule 312 Amendment, not 100 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is one thousand three hundred twenty-nine (1329) days ((1122 days of "A" delay and 683 days of "B" delay) of PTO delay, reduced by 24 days of applicant delay and 452 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-nine (1329)** 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 : 7,995,771 B2

DATED : **August 9, 2011**

INVENTOR(S) : Faltys 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 1253 days.

Delete the phrase "by 1253 days" and insert – by 1329 days--

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Albemarle Corporation
451 Florida Street
Baton Rouge LA 70801-1765

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MAY 23 2011

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 11/534,968 :
Filed: September 25, 2006 : ON APPLICATION FOR
Attorney Docket No. K2-7432-B : PATENT TERM ADJUSTMENT
Title: Chain Extenders :

This is a decision on the "PETITION FOR REVISION OF PATENT TERM ADJUSTMENT," filed February 25, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from one hundred fifty-seven (157) days to two hundred sixty (260) days. Applicants dispute the 103 day reduction.

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 two hundred sixty **(260)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On November 26, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is 157 days. In response, applicant timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e).

Applicants dispute the 103 day reduction based on the withdrawal of the Notice of Incomplete Application.

Applicants' argument has been considered and has been determined to be persuasive. A review of the record shows that the Pre examination Notice mailed on October 12, 2006 was withdrawn and a Notice To File Missing Parts mailed on June 13, 2007 set a reply period of two months. A reply was submitted on August 10, 2007, thus a reduction is not warranted. Accordingly, the 103 day reduction will be removed.

Applicants' delay prior to the mailing of the Notice of Allowance is 44 (12 + 10 + 14 + 8) days. Office delay prior to the mailing of the Notice of Allowance is 304 days.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 260 days.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

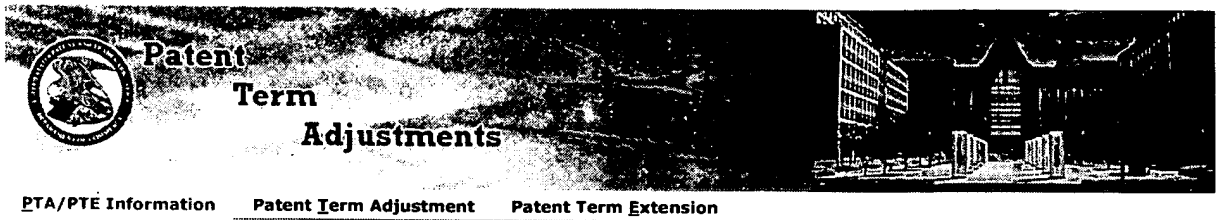
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11534968 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11534968

Application Filing Date	09/25/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	304
A Delays	304	PTO Manual Adjustment	103
B Delays	0	Applicant Delay (APPL)	147
C Delays	0	Total PTA (days)	260

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
134	05/23/2011		P028	Adjustment of PTA Calculation by PTO	103		0
126	11/26/2010		MN/=.	Mail Notice of Allowance			0
125	11/23/2010		IREV	Issue Revision Completed			0
124	11/23/2010		DVER	Document Verification			0
123	11/23/2010		N/=.	Notice of Allowance Data Verification Completed			0
122	11/23/2010		DOCK	Case Docketed to Examiner in GAU			0
121	11/22/2010		EX.A	Examiner's Amendment Communication			0
120	11/22/2010		CNTA	Allowability Notice			0
119	10/21/2010		IDSC	Information Disclosure Statement considered			0
118	10/21/2010	10/13/2010	EIDS.	Electronic Information Disclosure Statement		8	108
117	10/21/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
116	10/21/2010		DOCK	Case Docketed to Examiner in GAU			0
109	10/14/2010		FWDX	Date Forwarded to Examiner			0
111	10/13/2010		IDSC	Information Disclosure Statement considered			0
110	10/13/2010		EIDS.	Electronic Information Disclosure Statement			0
108	10/13/2010		A...	Response after Non-Final Action			0
107	10/13/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
106	07/15/2010		MCTNF	Mail Non-Final Rejection			0
105	06/25/2010		CTNF	Non-Final Rejection			0
103	05/11/2010		FWDX	Date Forwarded to Examiner			0
100	05/11/2010		ABN9	Disposal for a RCE / CPA / R129			0
101	05/10/2010	04/26/2010	RCEX	Request for Continued Examination (RCE)		14	86
99	05/10/2010		XT/G	Request for Extension of Time - Granted			0
98	05/10/2010		BRCE	Workflow - Request for RCE - Begin			0
97	05/07/2010		P574	Paralegal TD Accepted			0
96	05/07/2010		P574	Paralegal TD Accepted			0
93	05/04/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
92	05/03/2010		CTAV	Advisory Action (PTOL-303)			0
91	04/27/2010		FWDX	Date Forwarded to Examiner			0
102	04/26/2010		AMPR	RCE- AF Processed			0
95	04/26/2010		DIST	Terminal Disclaimer Filed			0
94	04/26/2010		DIST	Terminal Disclaimer Filed			0
90	04/26/2010		A.NE	Amendment after Final Rejection			0
104	04/12/2010		IDSC	Information Disclosure Statement considered			0
89	04/12/2010		RCAP	Reference capture on IDS			0
88	04/12/2010		EIDS.	Electronic Information Disclosure Statement			0
87	04/12/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
86	01/26/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
85	01/21/2010		CTFR	Final Rejection			0
78	12/13/2009		FWDX	Date Forwarded to Examiner			0
84	10/19/2009		IDSC	Information Disclosure Statement considered			0
79	10/19/2009	10/09/2009	EIDS.	Electronic Information Disclosure Statement		10	77
76	10/19/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
77	10/09/2009		A...	Response after Non-Final Action			0
83	07/31/2009		IDSC	Information Disclosure Statement considered			0
81	07/31/2009		EIDS.	Electronic Information Disclosure Statement			0
75	07/31/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
74	07/21/2009		MCTNF	Mail Non-Final Rejection			0
73	07/20/2009		CTNF	Non-Final Rejection			0
82	05/27/2009	05/15/2009	EIDS.	Electronic Information Disclosure Statement		12	64
69	05/27/2009		IDSC	Information Disclosure Statement considered			0
68	05/27/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
67	05/22/2009		FWDX	Date Forwarded to Examiner			0
65	05/22/2009		FWDX	Date Forwarded to Examiner			0
63	05/22/2009		ABN9	Disposal for a RCE / CPA / R129			0

66	05/15/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
64	05/15/2009		RCEX	Request for Continued Examination (RCE)			0
62	05/15/2009		BRCE	Workflow - Request for RCE - Begin			0
61	04/10/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
60	04/10/2009		CTAV	Advisory Action (PTOL-303)			0
59	04/08/2009		FWDX	Date Forwarded to Examiner			0
58	04/07/2009		A.NE	Amendment after Final Rejection			0
57	03/24/2009		MSFR.	Mail Supplemental Final Rejection			0
56	03/23/2009		SFR.	Supplemental Final Rejection			0
55	03/04/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
54	03/02/2009		CTFR	Final Rejection			0
53	01/27/2009		FWDX	Date Forwarded to Examiner			0
52	12/16/2008		A...	Response after Non-Final Action			0
50	09/24/2008	11/25/2007	MCTNF	Mail Non-Final Rejection	304		0.5
49	09/23/2008		CTNF	Non-Final Rejection			0
36	09/02/2008		DOCK	Case Docketed to Examiner in GAU			0
34	08/18/2008		DOCK	Case Docketed to Examiner in GAU			0
51	08/04/2008		M844	Information Disclosure Statement (IDS) Filed			0
43	08/04/2008		IDSC	Information Disclosure Statement considered			0
33	08/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
42	05/02/2008		IDSC	Information Disclosure Statement considered			0
32	05/02/2008		RCAP	Reference capture on IDS			0
31	05/02/2008		M844	Information Disclosure Statement (IDS) Filed			0
30	05/02/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
27	11/22/2007		PG-ISSUE	PG-Pub Issue Notification			0
26	11/13/2007		DOCK	Case Docketed to Examiner in GAU			0
41	10/24/2007		IDSC	Information Disclosure Statement considered			0
23	10/24/2007		EIDS.	Electronic Information Disclosure Statement			0
22	10/24/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
40	10/23/2007		IDSC	Information Disclosure Statement considered			0
24	10/23/2007		EIDS.	Electronic Information Disclosure Statement			0
21	10/23/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
20	10/17/2007		W525	Withdraw Flagged for 5/25			0
19	10/15/2007		F525	Flagged for 5/25			0
18	10/02/2007		DOCK	Case Docketed to Examiner in GAU			0
17	09/11/2007		TI1050	Transfer Inquiry to GAU			0
16	09/07/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	08/28/2007		OIPE	Application Dispatched from OIPE			0
12	08/16/2007		PGPC	Sent to Classification Contractor			0
11	08/16/2007		COMP	Application Is Now Complete			0
10	08/10/2007		ADDFLFEE	Additional Application Filing Fees			0
9	08/10/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	06/13/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
6	04/25/2007	01/12/2007	ADDFLFEE	Additional Application Filing Fees		103	4
29	04/23/2007		IDSC	Information Disclosure Statement considered			0
28	04/23/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
15	04/23/2007		RCAP	Reference capture on IDS			0
14	04/23/2007		M844	Information Disclosure Statement (IDS) Filed			0
5	10/12/2006		W/OA	Pre-Exam Office Action Withdrawn			0
4	10/12/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	10/05/2006		L194	Cleared by OIPE CSR			0
2	10/04/2006		SCAN	IFW Scan & PACR Auto Security Review			0
7	09/25/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
1	09/25/2006		IEXX	Initial Exam Team nn			0
0.5	09/25/2006		EFILE	Filing date			0

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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Dominique M. Freeman	:	
Application No. 11/534,977	:	DECISION ON PETITION
Filed: September 25, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 38187-2853.US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 20, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In

re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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GOODWIN PROCTER LLP
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135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

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NOV 03 2010

OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman :
Application No. 11/534,977 : DECISION GRANTING PETITION
Filed: September 25, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 38187-2853.US :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 21, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been 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 the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 3736 for appropriate action on the amendment filed October 21, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
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
11/534,977	09/25/2006	3736	890	38187-2853.US	36	2

CONFIRMATION NO. 6847

CORRECTED FILING RECEIPT

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

Date Mailed: 11/02/2010

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)

Dominique M. Freeman, La Honda, CA;

Power of Attorney: The patent practitioners associated with Customer Number 77845

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/724,073 10/05/2005
and is a CIP of 10/237,261 09/05/2002 PAT 7,344,507

Foreign Applications

If Required, Foreign Filing License Granted: 10/16/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/534,977**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Methods and apparatus for an analyte detecting 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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AUG 01 2011

PCT LEGAL ADMINISTRATION

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of
BADRI-HOEHER
U.S. App. No.: 11/535,023
PCT No.: PCT/EP05/51185
Int. Filing Date: 16 March 2005
Priority Date: 25 March 2004
Attorney Docket No.: 117393-060
For: METHOD AND COMMUNICATION DEVICE FOR INTERFERENCE CANCELLATION IN A CELLULAR TDMA COMMUNICATION SYSTEM

DECISION

This decision is issued in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed 08 January 2010. This is also responsive to applicant's request for corrected filing receipt and request for a refund filed on 18 December 2006.

BACKGROUND

On 16 March 2005, applicant filed international application PCT/EP05/51185 which claimed a priority date of 25 March 2004 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 September 2006.

On 25 September 2006, applicant initiated the present application by filing electronically, inter alia, an Application Data Sheet indicating that the application was "a 371 of International application PCT/EP05/51185" and listing the European Patent application EP04007211 as a priority document. On 18 December 2006, applicant requested a corrected filing receipt to indicate that the filing was a national stage of PCT/EP05/51185 along for a request for refund of filing fee on the grounds that applicant overpaid $100 in fees.

DISCUSSION

The USPTO has adopted a bright-line test for determining whether application papers will be processed under 35 U.S.C. 371 or alternatively under 35 U.S.C. 111(a). Under this standard, any intended filing of an international application as a national stage application must

clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise the submission will be considered as being made under 35 U.S.C. 111(a).

Inspection of the instant application file reveals that the Application Data Sheet filed on 25 September 2006 specifically referenced 35 U.S.C. 371 under Domestic Priority Information, identifying international application PCT/EP05/51185 to enter the national stage in the United States. The application type shown for the 25 September 2006 EFS submission is "utility"; however, this does not constitute a conflicting instruction because it does not specify treatment under 35 U.S.C. 111(a) as opposed to 371. Based on the totality of the circumstances present in this situation, treatment under 35 U.S.C. 371 would be appropriate. Therefore, the petition is granted.

With regard to applicant's request for a refund of $100, the request is granted. The basic national fee of $300 (fee code 1631) was charged to applicant's deposit account per his authorization. Applicant was charged $500 for the search fee, rather than $400. At the time of the U.S. national stage filing, the search fee was $400 (1642) and the examination fee was $200 (1633).

CONCLUSION

Applicant's petition to correct the filing request is **GRANTED**.

The present application will be treated as a U.S. national stage filed under 35 U.S.C. 371 of international application of PCT/EP05/51185.

Applicant's request for a refund of $100 is **GRANTED**.

This application is being referred to the National Stage Processing Branch of the office of PCT Operations for processing of this application as a national stage filing under 35 U.S.C. 371.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney-Advisor
PCT Legal Office
Office of PCT Legal Administration
Tel: (571) 272-3286
Fax: (571) 273-0459

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FEB 28 2011

OFFICE OF PETITIONS

PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

In re Application of :
Mitsuhiko Ogihara, et al. :
Application No. 11/535,132 : DECISION ON PETITION
Filed: September 26, 2006 :
Attorney Docket No. 9448-208US (G0573US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 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 August 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2894 for appropriate action by the Examiner in the normal course of business on the reply received January 20, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

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APR 07 2011

OFFICE OF PETITIONS

SHOOK HARDY & BACON LLP
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY MO 64108-2613

In re Application of	:	
Zhang, et al.	:	DECISION GRANTING
Application No. 11/535,160	:	PETITION
Filed: September 26, 2006	:	
Attorney Docket No. 316439.01	:	

This is a decision on the petition under 37 CFR 1.183, filed February 18, 2011, to waive § 131's requirement that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **GRANTED**.

A non-final Office action was mailed on August 18, 2010. This office action set a shortened statutory period for reply of three months.

In response, on February 18, 2011, applicants submitted a reply and a declaration under 37 CFR 1.131, made timely by obtaining a three month extension of time. The 37 CFR 1.131 declaration stated that all of the inventors conceived the inventive embodiment of the instant application prior to June 29, 2006.

However, the 37 CFR 1.131 declaration lacked the signature of joint inventors Wang, Mah, and Zhuang. Applicants have filed the instant petition to have the 37 CFR 1.131 declaration entered

despite the fact that the declaration was not signed by Wang, Mah, and Zhuang.

37 CFR 1.131 states, in pertinent part:

> 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.[1]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[2]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are the joint inventors.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by all of the joint inventors. However, only one of the joint inventors has executed the declaration. Applicants have demonstrated that a *bona fide* effort was made to secure the signature of joint inventors Wang, Mah, and Zhuang. Accordingly, it is concluded that applicants have demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

---

[1] 37 CFR 1.131(a) (emphasis added).

[2] MPEP 715.04.

The application is being forwarded to Group Art Unit 2162 for consideration of the Amendment and the 37 CFR 1.131 declaration, both filed February 18, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OCT 04 2011

OFFICE OF PETITIONS

MANUEL F. DE LA CERRA
6885 CATAMARAN DRIVE
CARLSBAD CA 92011

In re Patent No. 7,365,551 :
Issue Date: April 29, 2008 :
Application No. 11/535,219 : NOTICE
Filed: September 26, 2008 :
For: EXCESS OVERDRIVE DETECTOR FOR PROBE CARDS :

This is a notice regarding your communication filed September 22, 2011, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The request is **DISMISSED**.

Counsel states that the first maintenance fee was incorrectly paid at the small entity rate and now wishes to pay the large entity portion of the maintenance fee in the amount of $490.00 to be charged to deposit account no. 04-0750.

The request for acceptance of a fee deficiency submission under 37 CFR 1.28 (c) is dismissed because the request is not signed by a proper party. **If signed by an assignee, a statement under 37 CFR 3.73(b) is required**. Counsel is encouraged to note 37 CFR 1.33(b) which reads:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Applicant is given **ONE MONTH** to submit a properly signed request listing the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper. This time period is not extendable under 37 CFR 1.136(a).

The file does not indicate a change of address has been submitted, although the address given on the request differs from the address of record. If appropriate, a 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 request; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

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MANUEL F. DE LA CERRA
6885 CATAMARAN DRIVE
CARLSBAD CA 92011

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,365,551 :
Issue Date: April 29, 2008 :
Application No. 11/535,219 : NOTICE
Filed: September 26, 2006 :
Attorney Docket No. TDTECH-006 :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 on October 7, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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PATENT SERVICES
101 COLUMBIA DRIVE
PO BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Application of	:	
MARKER, et al	:	
Application No. 11/535,274	:	DECISION ON PETITION
Filed: September 26, 2006	:	
Attorney Docket No. 110329	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 9, 2011, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 7, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 10, 2011. A Notice of Abandonment was mailed May 25, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ARTHUR E. GOODING
25 EAST ALGONQUIN ROAD
DES PLAINES, IL 60017

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111

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APR 01 2011

OFFICE OF PETITIONS

In re Application of :
Dana LEE, et *al.* :
Application No. 11/535,452 : DECISION ON PETITION
Filed: September 26, 2006 : UNDER 37 CFR 1.181
Attorney Docket No. **0084567.624US0** :

This is a decision on the petition, filed December 1, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed April 12, 2010 , 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 November 18, 2010.

Petitioner states that the Notice of Non-Compliant Amendment was not received in his office until June 1, 2010. Petitioner submits as evidence, a copy of the Notice dated April 12, 2010 and the postmarked envelope dated May 28, 2010, which was after the period for response expired on May 12, 2010.

In view of the above, the holding of abandonment for failure to timely file a reply to the Notice of Non-Compliant Amendment of April 12, 2010 is hereby withdrawn and the application restored to pending status. The petition fee of $1620 submitted with this request is unnecessary and will be refunded to petitioner's deposit account no. 04-0258.

This application is being referred to Technology Center AU 2827 for appropriate action in the normal course of business on the reply received June 4, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-4-11

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction for Appl. No.: 11535467 Patent No.: 7833643

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: Change to column 15, lines 16-17 (claim 10) will not be entered as there is no support for the claimed bistrib [src] fluorometbene sulfonamide compound in the original specification (notwithstanding the obvious spelling mistake).

Vasu Jagannathan — 2/10/2011
SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : **7833643**
Ser. No. : **11/535467**
Inventor(s) : **ANGELL, CHARLES AUSTEN**
Issued : **11/16/2010**
Title : **NEUTRAL PROTIC-SALT ELECTROLYTES AND PROTIC-SALT IMBIBED POLYMER MEMBRANES FOR HIGH TEMPERATURE FUEL CELL APPLICATIONS**
Docket No. : **22193-006001 / M5-100**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

In regards to the alleged error(s) in the Claims, Column 15 lines 16-17, see the attached SPE Response form.

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

FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

OL

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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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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

MAILED
SEP 08 2010
OFFICE OF PETITIONS

In re Application of :
Kiyoshi Ueda :
Application No.: 11/535,557 : ON PETITION
Filed: September 27, 2006 :
Attorney Docket No.: 076376.0508 :

This is a decision on the petition, filed September 3, 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 26, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2853 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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Alexandria, VA 22313-1450
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THE BAYSHORE LAW GROUP, PLLC
400 N. ASHLEY DRIVE, SUITE 2010
Tampa, FL 33602

MAILED

SEP 09 2010

OFFICE OF PETITIONS

In re Application of
Michael Vosch
Application No. 11/535,774
Filed: September 27, 2006
Attorney Docket No. 0022 US

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 23, 2010, to revive the above-identified application.

In response to the decision mailed June 28, 2010, petitioner submits the present renewed petition along with a Request for Continued Examination (RCE) under 37 CFR 1.114 along with the $405 RCE fee and an amendment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE, the $405 RCE fee and an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, 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 Technology Center Art Unit 3739 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Lonnie R. Drayer, Attorney at Law, PLLC
6504 Cathedral Oaks Drive
Plant City, FL 335656

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11535914
Filing Date	27-Sep-2006
First Named Inventor	Michael Schoen
Art Unit	3688
Examiner Name	MICHAEL STIBLEY
Attorney Docket Number	LookSmart 0016
Title	DELIVERY OF INTERNET ADS

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 93871

The reason(s) for this request are those described in 37 CFR:

10.40(c)(5)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	LookSmart Ltd.
Address	55 2nd Avenue, Suite 700
City	San Francisco
State	CA
Postal Code	94105
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Norman E. Brunell, Reg. No. 26533/
Name	Norman E. Brunell
Registration Number	26533

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 15, 2011

In re Application of :

Michael Schoen

Application No : 11535914

Filed : 27-Sep-2006

Attorney Docket No : LookSmart 0016

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 15, 2011

The request is **APPROVED.**

The request was signed by Norman E. Brunell (registration no. 26533) on behalf of all attorneys/agents associated with Customer Number 93871 . All attorneys/agents associated with Cusotmer Number 93871 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name	LookSmart Ltd.
Name2	
Address 1	55 2nd Avenue, Suite 700
Address 2	
City	San Francisco
State	CA
Postal Code	94105
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

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ConMed Corporation
Attn. Tim Evans
525 French Road
Utica NY 13502

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DEC 19 2011
OFFICE OF PETITIONS

In re Application of

Lowery, et al.

Application No. 11/536,244

Filed: September 28, 2006

Attorney Docket No. **1566_011.2**

: DECISION ON PETITION

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-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 25, 2011, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 26, 2011.

The amendment filed December 6, 2011, is noted.

The application is being forwarded to Technology Center 3700, GAU 3777 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 13 2010

OFFICE OF PETITIONS

BALLARD SPAHR LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

In re Application of	:	
Mark F. LEPPERT, et al	:	
Application No. 12/536,245	:	DECISION ON PETITION
Filed: August 5, 2009	:	
Attorney Docket No. 21101.0048U3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 Notice to File Corrected Application Papers (Notice), mailed August 26, 2009. The Notice set a period for reply of **two (2) months** from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form replacement drawings; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. 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.

All other inquiries should be directed to the Office of Data Management at (571) 272-4000.

This application is being referred to the Office of Data Management for further pre-examination processing.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: LAWRENCE A. VALLANUEVA
GARDNER GROFF GREENWALD &
VILLANUEVA, PC,
2018 POWERS FERRY RD.
ATLANTA GA 30339

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KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD IL 61101

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MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Eric Sugalski :
Application No. 11/536,278 : DECISION ON PETITION
Filed: September 28, 2006 :
Attorney Docket No. **7025**
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2010 to revive the above-identified application, which, for the reasons stated below, is being treated as a request for a three (3)- month extension of time.

The request for a three (3)-month extension of time is **GRANTED**.

The record shows that a final Office action was mailed on August 31, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before December 01, 2009, or on or before March 01, 2010 with the submission of a three-month extension of time fee pursuant to the provisions of 37 CFR 1.136(a). A response to the final Office action was filed March 12, 2010 with a certificate of mailing dated March 01, 2010. Since petitioner may obtain an extension of time up to an including three months, the reply filed March 12, 2010, is timely, and this case is therefore not in fact abandoned. Accordingly, the filing of a petition to revive is inappropriate until the maximum extendable period for reply has expired.

In view of the above, the $810 petition fee submitted will be refunded to petitioner in due course.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3643 for appropriate action on the amendment filed concurrently with a Request for Continued Examination on March 12, 2010.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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INTELLECTUAL PROPERTY ATTORNEYS
7225 BEVERLY ST.
ANNANDALE VA 22003

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OFFICE OF PETITIONS

In re Application of :
Yann-Shouh Sun et al. :
Application No. 11/536,285 : DECISION ON PETITION
Filed: September 28, 2006 :
Attorney Docket No. **18906-015** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 8, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 9, 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 $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 3723 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

Decision Date : April 20,2011

In re Application of :

William Gates

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11536449

Filed : 28-Sep-2006

Attorney Docket No : MS1-4746US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 20,2011 , 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 3718 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	11536449
Filing Date	28-Sep-2006
First Named Inventor	William Gates
Art Unit	3718
Examiner Name	JAMES MCCLELLAN
Attorney Docket Number	MS1-4746US
Title	VIRTUAL ENTERTAINMENT

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	/Elliott Y. Chen/
Name	Elliott Y. Chen
Registration Number	58293

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Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Brunk et al.	:	
Application No. 11/536,487	:	ON APPLICATION FOR
Filed: September 28, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 098888-1942	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR APPLICATION UNDER 37 C.F.R. § 1.705(b), filed May 16, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred thirty-one (1131) days, not eight hundred seventy-four (874) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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 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.

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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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY UT 84101

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SEP 24 2010

OFFICE OF PETITIONS

In re Application of :
Shisong Zhang :
Application No. 11/536,515 : DECISION ON PETITION
Filed: September 29, 2006 :
Attorney Docket No. 3557.2.118 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 1, 2009 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. A Notice Requiring Additional Fees was mailed on September 22, 2009, which set a response time period of one (1) month or (30) days in which to submit a timely reply. Accordingly, the application became abandoned on October 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 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 3724 for appropriate action by the Examiner in the normal course of business on the replies received July 22, 2009 and September 3, 2009.

/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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/536,539	09/28/2006	Juan Carlos Riveiro	5367.02 (SMC)	9162

23308 7590 01/11/2011

PETERS VERNY , L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO, CA 94306

EXAMINER	
SHAHEED, KHALID W	
ART UNIT	**PAPER NUMBER**
2617	
MAIL DATE	**DELIVERY MODE**
01/11/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PETERS VERNY , L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

In re Application of:
RIVEIRO, JUAN CARLOS et al
Application Serial No.: 11/536,539
Filed: September 28, 2006
For: **MULTI-WIDEBAND COMMUNICATIONS OVER POWER LINES**

DECISION
ON PETITION

This is a decision on the petition to withdraw the final action, filed November 01, 2010, pursuant to 37 CFR § 1.181.

Petitioner alleges, "the Examiner has failed to respond to arguments presented by the Applicants. Some of these arguments are with regard to independent claims. Examples of these arguments are provided in the section below. Other grounds for withdrawing finality are also presented at the end of the section."

BACKGROUND

On April 01, 2010, a non-final Office action was mailed rejecting claims 1-2, 7-8, 10-11, 13-14, & 17-19 under 35 USC 102(e) as being anticipated by Berkman (US PGPub 2007/0002771). Claim 3 was rejected under 35 USC 103(a) as being obvious over Berkman in view Lee (US PGPub 2007/0060151). Claims 4, 5, & 16 were rejected under 35 USC 103(a) as being obvious over Berkman in view of Abraham et al (2006/0049693). Claim 9 was rejected under 35 USC 103(a) as being ovious over Berkman in view of Lo et al (US PGPub 2002/0026528). Claim 15 was rejected under 35 USC 103(a) as being obvious over Berkman in view of White et al (US PGPub 2004/0113757). Claims 20-24 were rejected under 35 USC 103(a) as being obvious over Berkman in view of Gidge et al (US PGPub 2006/0097574).

On June 22, 2010, applicant filed a response to the non-final office action. In the response applicant amended claim 1 and added new claims 25-27.

On September 01, 2010, a final Office action was mailed rejecting claims 1-2, 7-8, 10-11, 13-14, & 19 under 35 USC 102(e) as being anticipated by Berkman (US PGPub 2007/0002771). Claim 3 was rejected under 35 USC 103(a) as being obvious over Berkman in view Lee (US PGPub 2007/0060151). Claims 4, 5, & 16-18, 25, and 26 were rejected under 35 USC 103(a) as being obvious over Berkman in view of Abraham et al (2006/0049693). Claim 27 was rejected under 35 USC 103(a) as being obvious over Berkman in view of Abraham et al in further view of Goodman. Claim 9 was rejected under 35 USC 103(a) as being ovious over Berkman in view of Lo et al (US PGPub 2002/0026528). Claim 15 was rejected under 35 USC 103(a) as being obvious over Berkman in view of White et al (US PGPub 2004/0113757). Claims 20-24 were rejected under 35 USC 103(a) as being obvious over Berkman in view of Gidge et al (US PGPub 2006/0097574).

REGULATIONS AND PRACTICE

MPEP §706.07 [R-3] Final Rejection, states in part:

> Before final rejection is in order a clear issue should be developed between the examiner and applicant.

MPEP 706.07(a) [R-6] Final Rejection, When Proper on Second Action states in part:

> 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).

MPEP 707.07 Completeness and Clarity of Examiner's Action states:

> 37 CFR 1.104. Nature of examination.
>
> (b) Completeness of examiner's action. The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

MPEP 707.07(f) [R-3] Answer All Material Traversed states in part:

> In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application. ... Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

OPINION

A review of the file record shows, in the non-final office action of April 01, 2010, claims 17 and 18 were rejected under 35 USC 102 (e) as anticipated by Berkman. In applicants response, filed June 22, 2010 claims 17 and 18 were unamended. In the Final office action of September 01, 2010, claims 17 and 18 were rejected under 35 USC 103(a) as being obvious over Berkman in view of Abraham. In accordance with MPEP 706.07(a) the examiner introduced a new ground of rejection that was not necessitated by amendment nor based on information submitted in an information disclosure statement. Therefore, the office action cannot be made final. A review of the file record also shows, as applicant correctly pointed out in the petition, while the substance of some of the applicant's arguments have been answered by the examiner in the final office action, the substance of all of the applicant's arguments have not been answered. One instance in particular is applicant's arguments for patentability of claim 21 on page 12-13 of applicant's response. Examiner failed to acknowledge or respond to at least this argument. Therefore, in

accordance with MPEP 707.07 and MPEP 707.07(f) the final office action mailed September 01, 2010 is incomplete.

Accordingly, the petition to withdraw finality is **GRANTED**.

The record shows an Amendment after Final has been filed on October 29, 2010 and a subsequent Advisory action was mailed on December 10, 2010. As a result of the petition decision, the Examiner's final office action on September 15, 2010 and the Advisory action on December 10, 2010 are vacated. Application is being forwarded to examiner in order to mail out a complete office action that answers the substance of all of applicant's arguments in applicant's response filed on June 22, 2010 and also to answer the substance of any additional arguments in applicant's response filed on October 29, 2010.

Wanda L. Walker

Wanda L. Walker, Director
Technology Center 2600
Communications

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JAN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Gary M. Zalewski	:	
Application No.: 11/536,559	:	ON PETITION
Filed: September 28, 2006	:	
Attorney Docket No.: 86335 [SCEA06058US00]	:	

This is a decision on the petition, filed January 20, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 23, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3662 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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710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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JAN 19 2011
OFFICE OF PETITIONS

In re Application of :
HUANG et al. : DECISION ON PETITION
Application No. 11/536,577 :
Filed: 09/28/2006 :
Attorney Docket No. LAM2P707 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 12, 2009, as required by the Notice of Allowance and Fee(s) Due mailed October 10, 2008. A Notice of Abandonment was mailed on February 4, 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 and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

The Office finance records show that petitioners paid the petition fee, the issue fee and the publication fee twice. The overpayment totaling $3,430.00 will be refunded in due course.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEP 27 2010

OFFICE OF PETITIONS

In re Application :
Rofougaran :
Application No. 11/536,655 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: September 29, 2006 :
Dkt. No.: 17922US01 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 9, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 713 days, not 553 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).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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.

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JUN 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,830,981 :
Issued: November 9, 2010 : DECISION ON PATENT TERM
Application No. 11/536,655 :
Filed: September 29, 2006 :
Atty. Dkt. No.: 17922US01 :

This is a decision on the application for patent term adjustment filed January 5, 2011 requesting that the patent term adjustment be increased from 704 days to 706 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. 7,830,981 on November 9, 2010. The patent issued with a patent term adjustment of 704 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 159 days accorded pursuant to 37 CFR 1.702(b) and assert that based on petitioners interpretation of law and rules, the correct period of adjustment is 160 days. Patentee further contests the reduction of eight days in connection with the post allowance submission filed September 30, 2010 and assert that the correct reduction is seven 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 159 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.

However, in accordance with 35 USC 154(b)(1)(B)(i), 37 CFR 1.702(b)(1), and 37 CFR 1.703(b)(1), the period of adjustment pursuant to § 1.702(b) does not any time consumed by continued examination.

Herein, a request for continued examination was filed March 8, 2010. Thus, excluding the period of time consumed by continued examination, the period of adjustment pursuant to 37 CFR 1.703(b) is 159 days.

Patentees further contend that the period of reduction in connection with the post allowance submission is seven days.

In accordance with 37 CFR 1.704(c)(10), submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed is deemed a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application. Accordingly, the period of reduction in connection with the post allowance submission commenced September 30, 2010, the date that the submission was filed, and ended eight days later on October 7, 2010, the date that a reply in response thereto was mailed. See, 37 CFR 1.705(c)(10)(i).

In view thereof, no adjustment to the patent term will be made.

The required $200.00 fee set forth in 37 CFR 1.18(e) has been charged to the authorized deposit account. No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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SEP 22 2010

OFFICE OF PETITIONS

In re Application of :
Ahmadreza Rofougaran :
Application No. 11/536,673 : DECISION GRANTING PETITION
Filed: September 29, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 17789US01 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 15, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 11/443,946, filed May 30, 2006, set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center Art Unit 2617 for appropriate action on the amendment filed July 15, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
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
11/536,673	09/29/2006	2617	1104	17789US01	20	2

CONFIRMATION NO. 9353

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 09/21/2010

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)

Ahmadreza Rofougaran, Newport Coast, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CIP of 11/443,946 05/30/2006 PAT 7,761,115

Foreign Applications

If Required, Foreign Filing License Granted: 10/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/536,673**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method And System For Integrating An NFC Antenna And A BT/WLAN Antenna

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FEB 08 2011

OFFICE OF PETITIONS

In re Application of :
Ahmadreza Rofougaran :
Application No. 11/536,676 : ON APPLICATION FOR
Filed: 09/29/2006 : PATENT TERM ADJUSTMENT
Atty Docket No. :
17787US01 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705), filed on December 7, 2010, which is treated as a request for reconsideration under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased from 391 days to 939 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The request is **DISMISSED**.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

the mailing of the Notice of Allowance, the request is **DISMISSED.**

On September 17, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date was 391 days (455 days of PTO delay and 64 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants assert that the 2 day reduction for applicant delay is incorrect and should be removed. Specifically, applicants assert that the period for reply to the final Office action mailed on November 6, 2009, fell on a Saturday. Consequently, applicants assert, the reply filed on Monday, February 8, 2010, was timely filed.

With respect to the 2 day period of reduction for applicant delay for the filing of a reply on February 8, 2010, three months and 2 days after the mailing of an Office action on November 6, 2009, applicants' argument is not well taken.

35 U.S.C. 154(b)(2)(C)(ii) establishes the standard of reply by applicants to within three months of the date a notice is given or mailed to applicants.[3] 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.[4]

It is undisputed that the reply to the Office action mailed on November 6, 2009 was filed on February 8, 2010, three (3) months and two (2) days after the date the Office action was mailed. In this regard, the timeliness of the reply for purposes of avoiding abandonment is not relevant to the determination of patent term adjustment.[5] Accordingly, applicants' argument on

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[2] PALM Records indicate that the issue fee was paid on December 17, 2010.

[3] See, Comment 11, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56366 (September 18, 2000).

[4] See 37 CFR 1.704(b).

[5] See also, 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56366 (September 18, 2000).

application for removal of the 2 day reduction for applicant delay is not found persuasive.

Likewise, while 37 CFR 1.7(a) sets the time period for reply, it does not govern the determination of patent term adjustment. Simply put, the fact that the due date for a reply fell on a date more than three months from date the Office communication was mailed has no bearing on the determination of patent term adjustment.

In view thereof, no change will be made in the determination of patent term adjustment at the time of the mailing of the notice of allowance.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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NOV 18 2011

OFFICE OF PETITIONS

In re Application of:
Ahmadreza Rofougaran
Application No. 11/536,678
Filed: September 29, 2006
Attorney Docket No. 17783US01

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the petition filed November 10, 2011, under 37 C.F.R. § 1.705 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted to 533 days.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

Patentee's argue that the issuance of the patent resulting from this application has been delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, resulting in the reversal of an adverse determination of patentability. Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination).

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

In this instance a Notice of Appeal was filed November 12, 2010 and a non-Final Office Action was mailed February 4, 2011. Thus there is no patent term adjustment for the periods between the filing of the Notice of Appeal and the mailing of the subsequent Office Action.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
Ahmadreza Rofougaran :
Application No. 11/536679 : ON APPLICATION FOR
Filing or 371(c) Date: 09/29/2006 : PATENT TERM ADJUSTMENT
Atty Docket No.: :
17790US01 :

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 8, 2010. Applicant requests that the Patent Term Adjustment be changed to reflect 1098 days, not 643 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

[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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BARLOW, JOSEPHS & HOLMES, LTD.
101 DYER STREET
5TH FLOOR
PROVIDENCE RI 02903

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of :
HANLEY, Michael et al. :
Application No. 11/536,780 : DECISION ON PETITION
Filed: September 29, 2006 : TO WITHDRAW
Attorney Docket No. **K019 P01370-US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 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.

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 complete filled out Statement under 37 CFR 3.73(b) with reel and frame 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: **KENNEY MANUFACTURING CO.**
1000 JEFFERSON BLVD.
WARWICK RI 02886

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OFFICE OF PETITIONS

In re Application of :
HANLEY, Michael et al. :
Application No. 11/536,780 : DECISION ON PETITION
Filed: September 29, 2006 : TO WITHDRAW
Attorney Docket No. **K019 P01370-US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 14, 2010.

The request is **not approved** because it is moot.

A review of the file record indicates that the power of attorney to BARLOW, JOSEPHS & HOLMES, LTD. has been revoked by the assignee of the patent application on October 14, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **THE LAW OFFICES OF STEVEN MCHUGH, LLC**
46 WASHINGTON STREET
MIDDLETOWN CT 06457

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of
Aletto et al.
Application No. 11/536,783
Filed: September 29, 2006
Attorney Docket No. 23927-0001

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 William P. Smith on behalf of all attorneys of record who are associated with Customer Number 26587.

All attorneys/agents associated with the Customer Number 26587 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor at the address indicated below.

Currently, there is an outstanding Office action mailed September 13, 2010 that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Mark V. Aletto
199 Windsor Drive
Moon Township, PA 15108

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2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

MAILED

AUG 31 2011

OFFICE OF PETITIONS

In re Application of :
Michael P. Lacey :
Application No. 11/536,817 : ON PETITION
Filed: September 29, 2006 :
Attorney Docket No.: MSCAN001-US :

This is a decision in response to the petition, filed August 10, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment in response to the final Office action mailed June 4, 2010, was included with the petition filed on August 10, 2011; however, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/536,817	Applicant(s) LACEY, MICHAEL P	
	Examiner JASON LEE	Art Unit 2438	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 August 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *21-26 and 33-43*.
   Claim(s) withdrawn from consideration: *none*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/J. L./
Examiner, Art Unit 2438

Continuation of section 3:
The Applicant has amended independent claim 21 and added new independent claim 36. The amentments will not be entered because they require new consideration and/or search. For example, For independent claim 21, Applicant added new limitation of " a barcode indicative of the health-related information, the barcode being detachably or permanently affixable to the data carrier; and, a processor which is programmed to wirelessly receive information of the barcode optically scanned via a wireless device" which is not in the prior claim. Applicant's amendment changes the scope of the invention and thus would require further search and consideration. Therefore, the amendment will not be entered.

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant amended independent claim 21 and added new independent claim 36. The amended claim changes the scope of the invention require further search and consideration. For at least the reasons outlined above, the examiner believes that the application is not in condition for allowance.

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2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

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SEP 14 2011
OFFICE OF PETITIONS

In re Application of :
Michael P. Lacey :
Application No. 11/536,817 : ON PETITION
Filed: September 29, 2006 :
Attorney Docket No. MSCAN001-US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 6, 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 Johney U. Han appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

This application became abandoned for failure to timely reply to the final Office action mailed June 4, 2010. A Notice of Abandonment was mailed on December 14, 2010. In response, on August 10, 2011 a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed August 31, 2011. On September 6, 2011 petitioner submitted, *inter alia*, 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 a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $405; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 2438 for processing of the RCE filed September 6, 2011 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

[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.

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NEW YORK NY 10017

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JUL 21 2011

OFFICE OF PETITIONS

In re Application :
Nicholas Van Bruggen et al. :
Application No. 11/536,871 : DECISION ON APPLICATION
Filed: September 29, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **12279-377-999** :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed June 29, 2011. Applicant requests that the determination of patent term adjustment be corrected from 240 to 582 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/536,894	09/29/2006	Tao Tian	087124-0674	9668

98000 7590 04/09/2012

McDermott Will & Emery LLP
600 13th Street, NW
Washington, DC 20005-3096

EXAMINER	
LEE, MICHAEL	

ART UNIT	PAPER NUMBER
2422	

NOTIFICATION DATE	DELIVERY MODE
04/09/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mweipdocket@mwe.com
sip_docket@mwe.com
ocpat_uspto@qualcomm.com

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April 6, 2012

McDermott Will & Emery LLP
600 13th Street, NW
Washington DC 20005-3096

In re Application of :
Tao Tian et al. : **DECISION ON PETITION**
Application No. 11536894 :
Filed: 09/29/2006 :
Attorney Docket No. **087124-0674** :

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 11, 2007.

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 inquiries 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 2 2010

TO SPE OF : ART UNIT 1792
SUBJECT : Request for Certificate of Correction for Appl. No.:11/536976Patent no.7537671

Please respond to this request for a certificate of correction w
ithin 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved all changes.

/Parviz Hassanzadeh/ 1716

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RSW IP Law
IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

In re Application of		
EICHENBERGER, ALEXANDRE E. et al.	:	JAN 25 2012
Application No.: 11/536,990	:	DECISION ON
Filing or 371(c) Date: September 29, 2006	:	PETITION
Attorney Docket Number: CA920060066US1	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on January 18, 2012.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed March 29, 2011 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on July 14, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the Hand Delivery to USPTO on June 28, 2011 thereon on the date stamped thereon by the USPTO.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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MOTOROLA SOLUTIONS, INC.
IP LAW DOCKETING
1303 EAST ALGONQUIN ROAD
IL01/11TH FLOOR
SCHAUMBURG IL 60196

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of :
Pinder, Ellis A. :
Application No. 11/537,039 : ON PETITION
Filed: September 29, 2006 :
Attorney Docket No. CM10579J :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2011, which, for the reasons stated below, is being treated as a request for a two-month extension of time.

The request for a two-month extension of time is **GRANTED**.

The record shows that a Notice of Panel Decision from Pre-Appeal Brief Review was mailed on March 15, 2011, which reset the time period for filing an appeal brief to one-month from the mailing of that decision, or the balance of the two-month time period running from the receipt of the Notice of Appeal, whichever is greater. The time period is extendable under 37 CFR 1.136. Accordingly, a reply was due on or before April 15, 2011, or on or before September 15, 2011 with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a). Since petitioner may obtain an extension of time up to and including September 15, 2011, this case is not in fact abandoned. Accordingly, the filing of a petition to revive is inappropriate until the maximum extendable period for reply has expired.

In view of the above, the $1620.00 petition fee submitted will be applied towards the purchase of a $490.00 two-month extension of time. The overpayment of $1130.00 will be refunded to petitioner in due course.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3206.

This application is being referred to Technology Center AU 2618 for further action as the nature of the case may require.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 11/537,108 : ON APPLICATION FOR
Filed: 09/29/2006 : PATENT TERM ADJUSTMENT
Atty Docket No. :
17691US01 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed on February 3, 2011, which is treated as an application for patent term adjustment under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 601 days to 1104 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

AUG 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,933,323	:	DECISION ON REQUEST
Wang et al.	:	FOR
Issue Date: 04/26/2011	:	RECONSIDERATION OF
Application No. 11/537,108	:	PATENT TERM ADJUSTMENT
Filed: 09/29/2006	:	
Atty Docket No.	:	
17691US01	:	

This is a decision on the application for reconsideration of the patent term adjustment under 37 CFR 1.704(d), filed on June 20, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seventy-nine (1079) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of one thousand three (1003) days.

Patentees dispute the period of time excluded from B delay for appellate review. Patentees' argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (*e.g.*, the filing of a request for continued

examination). In this instance the period consumed by appellate review is 126 days, consisting of the period beginning on March 3, 2010, the date of filing of the notice of appeal and ending on July 6, 2010, the date the subsequent non-final Office action was mailed. Thus, B delay is 448 (574 - 126) days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Patentees further assert that the period of reduction for applicant delay in connection with the amendment after the mailing of the notice of allowance filed on February 3, 2011, should be 4 days rather than 5 days, as determined by the Office. Specifically, applicant contends that the period of delay should be measured from the day after the date the amendment was filed, rather than the date the amendment was filed.

Patentees argument has been considered, but is not convincing.

37 CFR 1.704(c)(10) states that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (i) **The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date**

of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months;

(emphasis added)

On February 3, 2011, an amendment was filed, after a notice of allowance was mailed. On February 7, 2011, five days after the date the amendment after the mailing of the notice of allowance was filed, the Office mailed a paper in response. As such, the reduction of 5 days for applicant delay is warranted and will not be removed.

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.

Accordingly, no change will be made to the patent term adjustment at the time of patent issuance.

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) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petition

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/13/2011 **Paper No.:** —

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/537139 Patent No.: 7879863 B2

CofC mailroom date: 4/6/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Janet L. Andres/ — **SPE**

1625 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/08/11

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 11537347 Patent No.: 7802719

CofC mailroom date: 01/25/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[redacted]

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: COC corrects a typo in the spec. which is approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Michael G. Lee/ 2876

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110121

DATE : January 21, 2011

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The change to renumbered claim 11 does not change the scope or meaning of the claim and mitigates an unresolved 112, 2nd paragraph problem

/In Suk Bullock/
Supervisory Patent Examiner, Art Unit 1772

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Alexandria, VA 22313-1450
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SCOTT C HARRIS
LAW OFFICE OF SCOTT C. HARRIS, INC.
P O BOX 1389
RANCHO SANTA FE, CA 92067-1389

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of :
Scott C. HARRIS :
Application No. 11/537,407 : DECISION ON PETITION
Filed: September 29, 2006 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **TivoNetwork/SCH** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 12, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2481 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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ECKMAN BASU, LLP
2225 E. BAYSHORE ROAD, SUITE 200
PALO ALTO, CA 94303-3220

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Steven C. QUAY, et *al.* :
Application No. 11/537,468 : DECISION ON PETITION
Filed: September 29, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. **MDR-00-03CIP** :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 29, 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, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1628 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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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
11/537,468	09/29/2006	1628	1850	MDR-00-03CIP	56	5

CONFIRMATION NO. 1464

90951
Eckman Basu LLP
2225 E. Bayshore Road
Suite 200
Palo Alto, CA 94303-3220

CORRECTED FILING RECEIPT

OC00000043547621

Date Mailed: 09/17/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Steven C. Quay, Seattle, WA;
Alexis Kays Leonard, Maple Valley, WA;
Henry R. Costantino, Woodinville, WA;
Anthony P. Sileno, Brookhaven Hamlet, NY;
Joshua O. Sestak, Kirkland, WA;

Assignment For Published Patent Application

Atossa Healthcare, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 90951

Domestic Priority data as claimed by applicant

This application is a CIP of 10/879,814 06/28/2004 ABN
and is a CIP of 10/601,953 06/24/2003 ABN
which claims benefit of 60/392,512 06/28/2002
and said 10/879,814 06/28/2004
is a CON of 09/678,591 10/03/2000 PAT 6,894,026
which is a CIP of 09/481,058 01/11/2000 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/02/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/537,468**

Projected Publication Date: None.

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

COMPOSITIONS AND METHODS FOR THE TREATMENT OF PSYCHIATRIC DISORDERS

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.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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).

ELECTRONIC FILING

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Ferrara et al.

U.S. Patent No.: 7,736,645 B2
Serial No.: 11/537,472

Issued: June 15, 2010
Filed: September 29, 2006

For: EG-VEGF NUCLEIC ACIDS AND POLYPEPTIDES AND METHODS OF USE

Confirmation No.: 1469

Group Art Unit: 1644

Examiner: Phuong N. HUYNH

Attorney Docket No. 12279-419-999
CAM No. 403545-999419

OK TO ENTER: /P.H./

09/02/2010

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.323

Commissioner for Patents
ATTN: Certificate of Correction Branch
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Patentees hereby respectfully request the issuance of a Certificate of Correction in connection with the above-identified patent. The errors are listed on the Form PTO-1050 submitted herewith. The priority data as claimed by applicant is incorrect in U.S. Patent No. 7,736,645 B2 issued on June 15, 2010.

Accordingly, please correct the Related U.S. Application Data at section (63) of the front page of the patent as follows:

(63) Continuation of application No. 10/027,603, filed on Dec. 19, 2001, now Pat. No. 7,264, 801, which is a continuation-in-part of application No. 09/886,242, filed on Jun. 20, 2001, now abandoned, which claims the benefit of U.S. Provisional Application Nos. 60/230,978 filed on Sep. 7, 2000 and 60/213,637 filed on Jun. 23, 2000. The application No. 09/886,242 is a continuation-in-part of international Application No. PCT/US00/32678 filed on Dec. 1, 2000. The PCT/US00/32678 Application is a continuation-in-part of international Application No. PCT/US00/08439 filed on Mar. 30, 2000, and is a continuation-in-part application of PCT Application No. PCT/US00/04914 filed on Feb. 24, 2000, and is a continuation-in-part of PCT Application No. PCT/US00/00219 filed on Jan. 5, 2000. The PCT/US00/00219 application claims the benefit of U.S. Provisional Application No. 60/145,698 filed on Jul. 26, 1999. The 09/886,242 application is a

continuation-in-part of 09/709,238 filed on Nov. 8, 2000, now abandoned, which is a continuation of national phase application of international application No. PCT/US99/12252, which claims the benefit of U.S. Provisional Application No. 60/096,146 filed on Aug. 11, 1998.

Please also correct the Related U.S. Application Data at section (60) of the front page of the patent as follows:

(60) Provisional application No. 60/230,978, filed on Sep. 7, 2000. Provisional application No. 60/213,637, filed on Jun. 23, 2000. Provisional application No. 60/145,698, filed on Jul. 26, 1999. Provisional application No. 60/096,146, filed on Aug. 11, 1998.

In support of their request, Patentees submit herewith as Appendix A, copies of the following documents in connection with U.S. Application No. 11/537,472, on which the above-identified patent is based: updated official filing receipt, dated June 6, 2007; and the front page of U.S. Patent Publication No. US2007/0213268A1. Both documents evidence the priority data claimed by the Patentee for the subject patent.

The Patentees respectfully request issuance of a Certificate of Correction in due course.

Pursuant to 37 C.F.R. §1.20(a), the surcharge required for filing the certificate of correction is believed to be $100.00. The Commission is authorized to charge the required fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,

Date: August 5, 2010

Susie S. Cheng 46,616
Susie S. Cheng (Reg. No.)

JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

Enclosure

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,736,645 B2

DATED : June 15, 2010

INVENTOR(S) : Ferrara *et al.*

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the front page of the patent, at section (63), please replace:

"Continuation of application No. 10/027,603, filed on Dec. 19, 2001, now Pat. No. 7,264,801, which is a continuation of application No. 09/886,242, filed on Jun. 20, 2001, now abandoned."

With:

-- Continuation of application No. 10/027,603, filed on Dec. 19, 2001, now Pat. No. 7,264, 801, which is a continuation-in-part of application No. 09/886,242, filed on Jun. 20, 2001, now abandoned, which claims the benefit of U.S. Provisional Application Nos. 60/230,978 filed on Sep. 7, 2000 and 60/213,637 filed on Jun. 23, 2000. The application No. 09/886,242 is a continuation-in-part of international Application No. PCT/US00/32678 filed on Dec. 1, 2000. The PCT/US00/32678 application is a continuation-in-part of international Application No. PCT/US00/08439 filed on Mar. 30, 2000, and is a continuation-in-part application of PCT Application No. PCT/US00/04914 filed on Feb. 24, 2000, and is a continuation-in-part of PCT Application No. PCT/US00/00219 filed on Jan. 5, 2000. The PCT/US00/00219 application claims the benefit of U.S. Provisional Application No. 60/145,698 filed on Jul. 26, 1999. The 09/886,242 application is a continuation-in-part of 09/709,238 filed on Nov. 8, 2000, now abandoned, which is a continuation of national phase application of international application No. PCT/US99/12252, which claims the benefit of U.S. Provisional Application No. 60/096,146 filed on Aug. 11, 1998. --

MAILING ADDRESS OF SENDER:
JONES DAY
222 East 41st Street
New York, New York 10017-6702
(212) 326-3939
NYI-4292807v1
FORM PTO 1050

PATENT NO. 7,727,536 B2

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=>

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Also on the front page of the patent, at section (60), please replace:

"Provisional application No. 60/230,978, filed on Sep. 7, 2000. Provisional application No. 60/213,637, filed on Jun. 23, 2000."

With:

-- Provisional application No. 60/230,978, filed on Sep. 7, 2000. Provisional application No. 60/213,637, filed on Jun. 23, 2000. Provisional application No. 60/145,698, filed on Jul. 26, 1999. Provisional application No. 60/096,146, filed on Aug. 11, 1998. --

MAILING ADDRESS OF SENDER:
JONES DAY
222 East 41st Street
New York, New York 10017-6702
(212) 326-3939
NYI-4292807v1
FORM PTO 1050

PATENT NO. 7,727,536 B2

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APPENDIX A

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/537,472	09/29/2006	1632	1980	11669.139USC3✓	32	2

CONFIRMATION NO. 1469

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EFD

UPDATED FILING RECEIPT

OC000000024245935

Date Mailed: 06/06/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. 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 mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. 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 (if appropriate).**

Applicant(s)

Napoleone Ferrara, San Francisco, CA;
Colin Watanabe, Moraga, CA;
William I. Wood, Hillsborough, CA;
Theresa Shek, San Mateo, CA;

Assignment For Published Patent Application

Genentech, Inc., South San Francisco, CA

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/027,603 12/19/2001
which is a CIP of 09/886,242 06/20/2001 ABN
which claims benefit of 60/230,978 09/07/2000
and claims benefit of 60/213,637 06/23/2000
and is a CIP of PCT/US00/32678 12/01/2000
which is a CIP of PCT/US00/08439 03/30/2000
and is a CIP of PCT/US00/04914 02/24/2000
and is a CIP of PCT/US00/00219 01/05/2000
which claims benefit of 60/145,698 07/26/1999
and is a CIP of PCT/US99/12252 06/02/1999
which claims benefit of 60/096,146 08/11/1998
This application 11/537,472
is a CIP of 09/709,238 11/08/2000 ABN
which is a CON of 09/380,137 ABN
which is a 371 of PCT/US99/12252 06/02/1999
which claims benefit of 60/096,146 08/11/1998

APPENDIX A

Foreign Applications

If Required, Foreign Filing License Granted: 10/31/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/537,472

Projected Publication Date: 09/13/2007

Non-Publication Request: No

Early Publication Request: No

Title

EG-VEGF NUCLEIC ACIDS AND POLYPEPTIDES AND METHODS OF USE

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.

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APPENDIX A

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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APPENDIX A

US 20070213268A1

(19) **United States**

(12) **Patent Application Publication** (10) **Pub. No.: US 2007/0213268 A1**

Ferrara et al. (43) **Pub. Date: Sep. 13, 2007**

(54) **EG-VEGF NUCLEIC ACIDS AND POLYPEPTIDES AND METHODS OF USE**

(75) Inventors: **Napoleone Ferrara**, San Francisco, CA (US); **Colin Watanabe**, Moraga, CA (US); **William I. Wood**, Hillsborough, CA (US); **Theresa Shek**, San Mateo, CA (US)

Correspondence Address:
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903 (US)

(73) Assignee: **Genentech, Inc.**, South San Francisco, CA

(21) Appl. No.: **11/537,472**

(22) Filed: **Sep. 29, 2006**

Related U.S. Application Data

(63) Continuation of application No. 10/027,603, filed on Dec. 19, 2001, which is a continuation-in-part of application No. 09/886,242, filed on Jun. 20, 2001, now abandoned, and which is a continuation-in-part of application No. PCT/US00/32678, filed on Dec. 1, 2000, which is a continuation-in-part of application No. PCT/US00/08439, filed on Mar. 30, 2000, and which is a continuation-in-part of application No. PCT/US00/04914, filed on Feb. 24, 2000, and which is a continuation-in-part of application No. PCT/US00/00219, filed on Jan. 5, 2000, and which is a continuation-in-part of application No. PCT/US99/12252, filed on Jun. 2, 1999.
Continuation-in-part of application No. 09/709,238, filed on Nov. 8, 2000, now abandoned, which is a continuation of application No. 09/380,137, now abandoned, filed as 371 of international application No. PCT/US99/12252, filed on Jun. 2, 1999.

(60) Provisional application No. 60/230,978, filed on Sep. 7, 2000. Provisional application No. 60/213,637, filed on Jun. 23, 2000. Provisional application No. 60/145,698, filed on Jul. 26, 1999. Provisional application No. 60/096,146, filed on Aug. 11, 1998. Provisional application No. 60/096,146, filed on Aug. 11, 1998.

Publication Classification

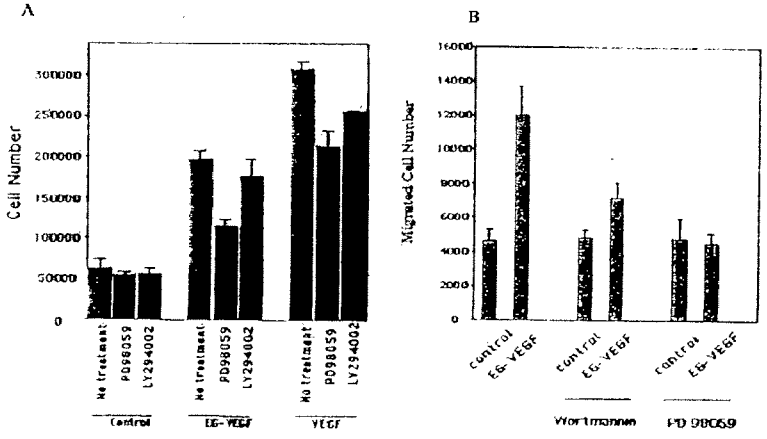
(51) **Int. Cl.**

A61K	*38/18*	(2006.01)
A61K	*31/7088*	(2006.01)
C12P	*21/08*	(2006.01)
C12Q	*1/66*	(2006.01)
C12Q	*1/68*	(2006.01)
G01N	*33/563*	(2006.01)

(52) **U.S. Cl.** **514/12**; 435/320.1; 435/328; 435/6; 435/7.21; 435/8; 514/44; 530/388.24

(57) **ABSTRACT**

The present invention is directed to novel polypeptides designated herein as EG-VEGF and to nucleic acid molecules encoding those polypeptides. Also provided herein are vectors and host cells comprising those nucleic acid sequences, chimeric polypeptide molecules comprising the polypeptides of the present invention fused to heterologous polypeptide sequences, antibodies which bind to the polypeptides of the present invention and to methods for producing the polypeptides of the present invention. Also provided herein are methods of screening for modulators of EG-VEGF. Furthermore, methods and related methods of treatment are described herein which pertain to regulating cellular proliferation and chemotaxis.



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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/06/2010

Applicant	: Jiamiao Tang	: DECISION ON REQUEST FOR
Patent Number	: 7659143	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/537,522	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **323** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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 :
John Malcolm MacGregor :
Application No. 11/537,586 : DECISION ON PETITION
Filed: September 29, 2006 : TO WITHDRAW
Attorney Docket No. BOBJ-103/00US 304661-2210 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 11, 2011.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the application has been abandoned or the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP) explains that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the application became abandoned on October 25, 2010.

All future communications from the Office will continue to be directed to the address of record until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS SA
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE, LTD
BUSINESS OBJECTS DATA INTEGRATION, INC.
777 6TH STREET, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS S.A.
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE LTD.
BUSINESS OBJECTS DATA INTEGRATION, INC.
777 6TH STREET NW, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON, DC 20001

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Ricardo Polo-Malouvier et al	:	
Application No. 11/537,587	:	DECISION ON PETITION
Filed: September 29, 2006	:	TO WITHDRAW
Attorney Docket No. BOBJ-115/00US 304661-2233	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **APPROVED**.

The request was signed by William S. Galliani on behalf of all the practitioners of record and the practitioners associated with Customer Number 23419.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to assignee Business Objects Software LTD at the above address.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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
11/537,587	09/29/2006	Ricardo Polo-Malouvier	BOBJ-115/00US 304661-2233

CONFIRMATION NO. 1667

83282
Business Objects Americas; Business Objects S.A.
SAP America, Inc.; Business Objects Software Ltd.
Business Objects Data Integration, Inc.
777 6th Street NW, Suite 1100, Attn: B. Galliani
Washington, DC 20001

POWER OF ATTORNEY NOTICE

Date Mailed: 03/21/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/24/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/537,587	09/29/2006	Ricardo Polo-Malouvier	BOBJ-115/00US 304661-2233

CONFIRMATION NO. 1667

83282
Business Objects Americas; Business Objects S.A.
SAP America, Inc.; Business Objects Software Ltd.
Business Objects Data Integration, Inc.
777 6th Street NW, Suite 1100, Attn: B. Galliani
Washington, DC 20001

POA ACCEPTANCE LETTER

OC000000046652829

Date Mailed: 03/21/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/24/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of
Ricardo Polo-Malouvier, et al.
Application No. 11/537,597
Filed: September 29, 2006
Attorney Docket No. BOBJ-107/00US

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 February 24, 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.
777 6TH STREET, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON, DC 20001

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/12/10

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 11537645 Patent No.: 7341385

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The Request for Certificate of Correction to correct the informalities in spec and drawing, no new matters has been added.

/UYEN-CHAU N. LE/
SPE

2874
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

August 9, 2011

Chad A. Guice
Sutherland Asbill & Brennan LLP
999 Peachtree Street, NE
Atlanta, GA 30309-3996

Patent No. : 7,985,275 B2
Appl. No. : 11/537,758
Inventor(s) : Alan Smithies
Issued : July 26, 2011
Title : **FILTER MEDIA AND DEVICES FOR HIGH TEMPERATURE FILTRATION AND METHODS**
Docket No. : 19441-0121

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

Sutherland GE
999 Peachtree Street
Atlanta, GA 30309

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,985,275 :
Issue Date: July 26, 2011 :
Application No. 11/537,758 : ON PETITION
Filed: October 2, 2006 :
Patentee(s): Alan Smithies :

This is a decision on the request under 37 CFR 3.81(b) filed August 17, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the present request complies with the requirements of 37 CFR 3.81(b), the request is **GRANTED**.

The $130 processing fee has been charged to petitioner's deposit account, as authorized.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Andrea Smith
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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BATTELLE ENERGY
ALLIANCE, LLC
P.O. BOX 1625
IDAHO FALLS ID 83415-3899

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Gering, et al. :
Application No. 11/537,785 : DECISION ON PETITION
Filed: 2 October, 2006 :
Attorney Docket No. B-247D1 :

This is a decision on the petition filed pursuant to 37 C.F.R. §1.78(a)(3), on 22 July, 2010, and supplemented on 4 January, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on 2 October, 2006. Office records reflect that the new claim was presented in an amendment on 22 July, 2010, supplemented on 4 January, 2011. However, it appears that the application to which Petitioner cites as the intended priority does not share at least one inventor with the instant application—it appears that Petitioner may have inverted digits in the misidentification of the priority claim.

(It is noted that Petitioner did not submit an application data sheet (ADS), and should do so on any renewed petition.

As noted above, the petition does not comply with the requirements of the regulations at 37 C.F.R. §1.78(a)(3) as to reference. The surcharge and statement were submitted..

Thus, the petition lacks item (1), above.

Because the record does not support Petitioner's attempt to identify the priority claimed, the amendment fails to comply with the provisions of 37 C.F.R. §1.78(a)(2)(i) and is therefore unacceptable.

Accordingly, before the petition under 37 C.F.R. §1.78 can be granted, a renewed petition under 37 C.F.R. §1.78 and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)) correcting the priority claims made are required.

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 3784 for further processing in due course.

Chris Bottorf
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BATTELLE ENERGY
ALLIANCE, LLC
P.O. BOX 1625
IDAHO FALLS ID 83415-3899

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Application of :
Gering, et al. :
Application No. 11/537,785 : DECISION ON PETITION
Filed: 2 October, 2006 :
Attorney Docket No. B-247D1 :

This is a decision on the petition filed pursuant to 37 C.F.R. §1.78(a)(3), on 11 February, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on 2 October, 2006. Office records reflect that the new claim was presented in an amendment on 11 February, 2011.

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 C.F.R. 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 37 C.F.R. 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application(s), accompanies this decision on petition.

This application is being forwarded to the examiner of Technology Center/AU 3784 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Director, Office of Petitions
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT.CLAIMS	IND CLAIMS
11/537,785	10/02/2006	3784	425	B-247D1	5	1

CONFIRMATION NO. 1987

CORRECTED FILING RECEIPT

85013
TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

OC00000004829764

Date Mailed: 06/20/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kevin L. Gering, Idaho Falls, ID;
Daryl R. Haefner, Idaho Falls, ID;

Power of Attorney:
Stephen Christian--32687
Alan Kirsch--33720

Domestic Priority data as claimed by applicant

This application is a DIV of 10/772,762 02/04/2004 PAT 7,147,071

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: 11/13/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/537,785**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

THERMAL MANAGEMENT METHODS

Preliminary Class

165

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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United States Patent and Trademark Office
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DITTHAVONG MORI & STEINER, P.C.
918 PRINCE STREET
ALEXANDRIA VA 22314

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Frank et al. :
Application No. 11/537,815 : DECISION ON PETITION
Filed: October 2, 2006 :
Attorney Docket No. P4229US04 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office Communication on or before July 19, 2010, as required by the letter mailed June 18, 2010. The letter set a shortened statutory period for reply of thirty (30) days. Accordingly, the date of abandonment of this application is July 20, 2010. A Notice of Abandonment was mailed August 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) an Application Data Sheet (ADS), (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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
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SNELL & WILMER L.L.P. (MAIN)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
Richard L. GOMEZ :
Application No. 11/537,862 : DECISION ON PETITION
Filed: October 2, 2006 : TO WITHDRAW
Attorney Docket No. 48428.0100 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 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 Damon Ashcraft on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: RICHARD GOMEZ
9428 E. MOUNTAIN SPRINGS ROAD
SCOTTSDALE AZ 85255

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
11/537,862	10/02/2006	Richard L. Gomez	48428.0100

CONFIRMATION NO. 1117

POWER OF ATTORNEY NOTICE

20322
SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Date Mailed: 10/26/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/04/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

NIXON PEABODY LLP -
PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of :
Paul Edmiston :
Application No. 11/537,944 : ON APPLICATION FOR
Filed: October 2, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 811826/111 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed May 19, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least five hundred ninety-five (595) days[1], not three hundred sixty-six (366) 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] plus the number of days from the payment of the issue fee to issuance of the instant application as a patent.

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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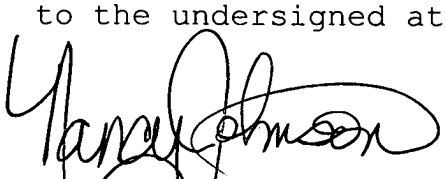
[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office 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.

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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Paper No.

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Application No. 11/537,965	:	
Brundage	:	DECISION ON
Filed: October 2, 2006	:	REQUEST FOR
Attorney Docket No. 098888-1943	:	RECONSIDERATION OF
Title: DIGITAL WATERMARKED IMAGERY, VIDEO, MAPS AND SIGNS	:	PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed on June 14, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand and fifty-one (1051) days, not five hundred and forty-five (545) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if Applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then Applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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ALEXANDRIA VA 22304

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SEP 30 2010

OFFICE OF PETITIONS

In re Application of:
Michael F. Roberts
Application No. 11/538,181
Filed: October 3, 2006
Attorney Docket No.: PIP165ROBEU-US

PETITION DECISION

This is a decision on the renewed petition under 37 CFR 1.183 filed May 21, 2010, requesting waiver of the requirements of 37 CFR 41.37(c)(1)(x) and 37 CFR 41.33(c).

The petition is **DISMISSED**.

Petitioner requests reconsideration of the petition decision mailed May 12, 2010.

The file record indicates the following:

The above identified application was filed on October 3, 2006. The filing included a claim to priority of provisional application 60/723,920.

A Non-final Office action was mailed September 3, 2009.

A 37 CFR 1.132 Declaration was filed December 1, 2009.

The first petition under 37 CFR 1.183 was filed December 2, 2009.

A Notice of Appeal and Appeal Brief was filed December 3, 2009.

A petition decision mailed May 12, 2010 dismissed the petition filed December 2, 2009.

The renewed petition was filed May 21, 2010.

The renewed petition requests reconsideration of the petition Decision mailed May 12, 2010. The initial petition filed December 2, 2009 requested the Director to waive the requirements of 37 CFR 41.37(c)(1)(x) and 37 CFR 41.33(c) so that evidence submitted after the non-final Office action but before the filing of an appeal could be considered. It is noted that 37 CFR

41.37(c)(1)(x) refers to "Related proceedings appendix" and it appears that petitioner intended to reference 37 CFR 41.37(c)(1)(ix) which refers to "Evidence appendix".

Petitioner requests waiver of the rules so that the 37 CFR 1.132 Declaration (Declaration) filed December 2, 2009 can be considered and a revised appeal brief filed which includes the declaration in the evidence appendix of the brief. The Declaration is considered by petitioner to be "new evidence".

The Declaration is new evidence since it represents the expert opinion of the attorney and was thus not present in the file prior to the non-final Office action mailed September 3, 2009.

37 CFR 1.132 states:

> **§ 1.132 Affidavits or declarations traversing rejections or objections.**
>
> When any claim of an application or a patent under reexamination is rejected or objected to, any evidence submitted **to traverse the rejection** (emphasis added) or objection on a basis not otherwise provided for must be by way of an oath or declaration under this section.

Petitioner's declaration was filed as a traverse to the non-final Office action and falls under the guidance of 35 USC 132 which states in pertinent part:

> **35 U.S.C. 132 Notice of rejection; reexamination.**
>
> (a) Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application; and **if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined** (emphasis added).

Once a response is filed in which applicant persists in his claim for a patent is received from applicant the period for response is tolled and reexamination must occur. Petitioner presents comments in his petition filed December 2, 2009 to suggest the Declaration was not filed as a response to the Office action but such reasoning is moot in view of the fact that the Declaration is, in fact, a response as clearly set forth in 35 USC 132.

The rules, practices and procedures provide for a method of orderly examination of a patent application and despite petitioner's intentions otherwise, it would not be proper to file both a reply to an outstanding Office action in the form of a declaration under 37 CFR 1.132 and an appeal brief. Either one of these responses exclusive of the other would have been an appropriate response to the non-final action mailed September 3, 2009. It was not proper procedure to file both responses.

Thus, no extraordinary situation, when justice requires, any requirement of the regulations exists and for this reason the petition is dismissed. The request to reconsider the petition decision mailed May 12, 2010 is granted. The request to grant the petition under 37 CFR 1.183 is dismissed for reasons presented above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

Anthony Knight
Director
Office of Petitions

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Paper No.

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ALEXANDRIA VA 22304

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JUN 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael F. Roberts	:	
Application No. 11/538,181	:	ON APPLICATION FOR
Filed: 10/03/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
PIP165ROBEU-US	:	

This is in response to the "37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT," filed on May 9, 2011, which is treated as an application for patent term adjustment under 37 CFR 1.705(b). Applicant submits that the patent term adjustment to be indicated on the patent should be increased from 512 days to 573 days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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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SEP 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,987,125	:	DECISION ON REQUEST
Michael F. Roberts	:	FOR
Application Number: 11/538,181	:	RECONSIDERATION OF
Issue Date: 07/26/2011	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 10/03/2006	:	
Atty Docket No.	:	
PIP165ROBEU-US	:	

This is a decision on the 37 CFR 1.705 APPLICATION FOR PATENT TERM ADJUSTMENT, filed on September 13, 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 six hundred forty-two (642) 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 six hundred fourteen (614) days.

Patentee disputes the period of time excluded from "B" delay for appellate review. Patentee's argument has been considered, but is not found persuasive.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). In this instance, the "over three year period" is 661 days, beginning on October 4, 2009, the date after the date that is three years after the filing date of the application and ending on July 26, 2011, the date the patent issued.

However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening

prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the periods consumed by appellate review are (a) 88 days, beginning on February 13, 2009, the date of filing of the notice of appeal and ending on May 11, 2009, the subsequent date of the mailing of an Office action (restriction requirement), and (b) 471 days, beginning on December 3, 2009, the date of filing of the notice of appeal and ending on March 18, 2011, the date of mailing of the notice of allowance. Thus, B delay is 102 days (661 – 559 (88 + 471)).

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Accordingly, no change will be made to the patent term adjustment of 614 days (512 days of A delay + 102 days of B delay – 0 overlapping days - 0 days of applicant delay) as set forth on the face of the issued patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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Suite 212
LARKSPUR, CA 94939

MAILED
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OFFICE OF PETITIONS

In re Application of
Eric Ronald Stachowski, et. al.
Application No. 11/538,298
Filed: October 3, 2006
Attorney Docket No. GBrown101

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 7, 2011, to revive the above-identified application.

The petition is **dismissed**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed August 13, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on November 7, 2011, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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LARKSPUR, CA 94939

MAILED
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OFFICE OF PETITIONS

In re Application of
Eric Ronald Stachowski, et. al.
Application No. 11/538,298
Filed: October 3, 2006
Attorney Docket No. GBrown101

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 13, 2011, to revive the above-identified application.

The renewed 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) along with the $465 fee; (2) the petition fee of $930; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3632 for processing of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED
AUG 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,866,183 :
Issue Date: January 11, 2011 :
Application No. 11/538,311 : NOTICE
Filed: October 3, 2006 :
Attorney Docket No. 86636(308092)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MARK W. HANDLEY
P.O. BOX 97
GRAPEVINE TX 76099-0097

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of :
Savage :
Application No. 11/538,325 : ON PETITION
Filed: October 3, 2006 :
Attorney Docket No. TSVG-28255US :
For: FORCE REGULATING APPARATUS

This is a decision on the petition under 37 CFR 1.181, filed January 31, 2011, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal, filed March 31, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 1, 2010. *See* MPEP 1215.04.

An amendment after final was filed on March 31, 2010. The Office mailed an Advisory Action in response on April 9, 2010, which provided the time frame in which to file the appeal brief. The Advisory Action does **not** indicate that the new or amended claim is allowed after final with no further action from applicant. The Advisory Action states that, for the purposes of appeal, the amendment will be entered and claim 54 will be allowable, but, as stated in the preceding item, claim 54 must be submitted in a separate, timely filed amendment canceling the non-allowable claims. Such an amendment was not filed and the case went abandoned on June 1, 2010 for failure to timely file an appeal brief.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Petitioner is encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

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MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of :
Savage :
Application No. 11/538,325 : ON PETITION
Filed: October 3, 2006 :
Attorney Docket No. TSVG-28255US :
For: FORCE REGULATING APPARATUS

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal, filed March 31, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 1, 2010. *See* MPEP 1215.04.

An amendment after final was filed on March 31, 2010. The Office mailed an Advisory Action in response on April 9, 2010, which provided the time frame in which to file the appeal brief. The Advisory Action does **not** indicate that the new or amended claim is allowed after final with no further action from applicant. The Advisory Action states that, for the purposes of appeal, the amendment will be entered and claim 54 will be allowable, but, as stated in the preceding item, claim 54 must be submitted in a separate, timely filed amendment canceling the non-allowable claims. Such an amendment was not filed and the case went abandoned on June 1, 2010 for failure to timely file an appeal brief.

Petitioner has submitted an amendment as a follow-up submission to the March 31, 2010 Notice of Appeal, an acceptable statement of the unintentional nature of the delay in filing a follow-up submission to the March 31, 2010 Notice of Appeal, and the $810.00 petition fee. All requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 3623 for consideration of the amendment filed on May 22, 2011.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

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