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Paper No.

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

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Goel et al.	:	DECISION ON APPLICATION
Application Number: 11/557897	:	FOR
Filing Date: 11/08/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
07844-792001/P694	:	

This letter is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed on November 28, 2011, which is treated as a petition under 37 CFR 1.705(b) requesting that the initial determination of patent term adjustment be increased from 730 days to 732 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 seven hundred thirty two (732) days. A copy of the updated PALM screen, showing the revised determination, is enclosed.

On September 29, 2011, the Office mailed the initial 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 seven hundred thirty (730) days (762 days of Office delay reduced by 32 days of applicant delay).

On November 28, 2011, applicants timely submitted the instant application for patent term adjustment.[1]

[1] PALM records show that the Issue Fee was received on November 28, 2011.

Applicants dispute the period of reduction of thirty (30) days for applicant delay in connection with the filing of a reply on March 14, 2011, three months and 30 days after the mailing of an Office action on November 12, 2010. Applicants assert that the period of reduction, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b), should be 28, rather than 30, days, from November 12, 2010 to March 12, 2011, because March 12, 2011 fell on a Saturday, and the reply filed on Monday, March 14, 2011, was timely filed with a one (1) month extension of time.

Upon review, applicants' argument is persuasive. This reduction has been reconsidered, and it is determined that entry of a reduction of 30 days for this reply timely filed pursuant to 35 U.S.C. § 21(b) is not warranted. Rather, the period of reduction for this reply is 28 days. Accordingly, the period of reduction of 30 days is removed, and a period of reduction of 28 days is entered.

In view thereof, the revised determination of PTA at the time of the mailing of the Notice of Allowance is **seven hundred thirty-two (732)** days (762 days of PTO delay, reduced by 30 (2 + 28 (30 - 2)) 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 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 PALM calculation

Patent Term Adjustments

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

Application Number*: 11557897 [Search] Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11557897

Application Filing Date	11/08/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	762
A Delays	762	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	32
C Delays	0	Total PTA (days)	732

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
82	12/19/2011		P028	Adjustment of PTA Calculation by PTO		28	0
81	12/19/2011		P028	Adjustment of PTA Calculation by PTO	30		0
72	09/29/2011		MN/=.	Mail Notice of Allowance			0
71	09/27/2011		OAR	Office Action Review			0
70	09/27/2011		OAR	Office Action Review			0
69	09/27/2011		IREV	Issue Revision Completed			0
68	09/27/2011		DVER	Document Verification			0
67	09/27/2011		N/=.	Notice of Allowance Data Verification Completed			0
66	09/27/2011		DOCK	Case Docketed to Examiner in GAU			0
65	09/23/2011		EX.R	Reasons for Allowance			0
64	09/23/2011		CNTA	Allowability Notice			0
60	07/25/2011		FWDX	Date Forwarded to Examiner			0
59	07/12/2011		A...	Response after Non-Final Action			0
58	04/26/2011		ELC_RVW	Electronic Review			0
57	04/25/2011		EML_NTF	Email Notification			0
56	04/25/2011		MCTNF	Mail Non-Final Rejection			0
55	04/20/2011		CTNF	Non-Final Rejection			0
46	03/16/2011		INHY	case Inherited			0
45	03/16/2011		DOCK	Case Docketed to Examiner in GAU			0
44	03/15/2011		FWDX	Date Forwarded to Examiner			0
43	03/14/2011	02/12/2011	A...	Response after Non-Final Action		30	39
42	03/14/2011		XT/G	Request for Extension of Time - Granted			0
41	11/12/2010		ELC_RVW	Electronic Review			0
40	11/12/2010		EML_NTF	Email Notification			0
39	11/12/2010		MCTNF	Mail Non-Final Rejection			0
38	11/08/2010		CTNF	Non-Final Rejection			0
37	10/22/2010		FWDX	Date Forwarded to Examiner			0
34	10/22/2010		ABN9	Disposal for a RCE / CPA / R129			0
36	10/21/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
35	10/21/2010	10/19/2010	RCEX	Request for Continued Examination (RCE)		2	27
33	10/21/2010		XT/G	Request for Extension of Time - Granted			0
30	10/21/2010		BRCE	Workflow - Request for RCE - Begin			0
29	07/19/2010		ELC_RVW	Electronic Review			0
28	07/19/2010		EML_NTF	Email Notification			0
27	07/19/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
26	07/14/2010		CTFR	Final Rejection			0
24	05/14/2010		FWDX	Date Forwarded to Examiner			0
25	05/07/2010		C614	New or Additional Drawing Filed			0
23	05/07/2010		A...	Response after Non-Final Action			0
22	02/09/2010		ELC_RVW	Electronic Review			0
21	02/08/2010		EML_NTF	Email Notification			0
20	02/08/2010	01/08/2008	MCTNF	Mail Non-Final Rejection	762		0.5
19	02/01/2010		CTNF	Non-Final Rejection			0
15	01/12/2009		DOCK	Case Docketed to Examiner in GAU			0
14	05/29/2008		DOCK	Case Docketed to Examiner in GAU			0
13	01/02/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	12/13/2006		WROIPE	Application Return from OIPE			0
11	12/13/2006		ROIPE	Application Return TO OIPE			0
10	12/13/2006		WROIPE	Application Return from OIPE			0
9	12/13/2006		ROIPE	Application Return TO OIPE			0
5	12/13/2006		COMP	Application Is Now Complete			0
8	12/12/2006		WROIPE	Application Return from OIPE			0
7	12/12/2006		ROIPE	Application Return TO OIPE			0
6	12/12/2006		OIPE	Application Dispatched from OIPE			0
4	12/11/2006		L194	Cleared by OIPE CSR			0
3	12/05/2006		SCAN	IFW Scan & PACR Auto Security Review			0

2	11/08/2006	NPRQ	PGPubs nonPub Request	0
1	11/08/2006	IEXX	Initial Exam Team nn	0
0.5	11/08/2006	EFILE	Filing date	0

Export to: Excel

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MOMENTIVE PERFORMANCE MATERIALS INC.-Quartz
c/o DILWORTH & BARRESE, LLP
1000 Woodbury Road
Suite 405
Woodbury NY 11797

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of :
D'Evelyn, et al. :
Application No. 11/558,048 :
Filed: November 9, 2006 :
Attorney Docket No. 130575-11 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 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 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 decision.

This application became abandoned March 12, 2007 for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed January 11, 2007. The Notice set a two month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 19, 2007.

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).

As to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

A petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional. Further, the Director may require additional information where there is a question whether the entire delay in question was unintentional. Where, as here, there is a question whether the delay in filing a grantable petition 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). In view of the inordinate delay (more than three years) in resuming prosecution, there is a question whether the entire delay was unintentional.

Any renewed petition must establish that the entire delay, from the time that a reply was due until the filing of a grantable petition, was unintentional.

Petitioners should explain why this application became abandoned (period 1) and what efforts were made to timely pursue the petition for revive (period 2).

As a result of the lack of information provided in the petition and the prolonged period of abandonment, the delay is not found to have been unintentional.

Petitioner may wish to submit supporting documentation to establish that the abandonment and the delay in seeking to resume prosecution have been unintentional. Petitioner may wish to also submit statements of fact from those having first hand knowledge of the facts and circumstances surrounding the delays at issue. 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).

In view thereof, 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 37CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

By Mail: Mail Stop PETITION
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Alexandria, VA 22313-1450

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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MOMENTIVE PERFORMANCE MATERIALS INC.-Quartz
c/o DILWORTH & BARRESE, LLP
1000 Woodbury Road
Suite 405
Woodbury NY 11797

MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Application of	:	
D'Evelyn, et al.	:	
Application No. 11/558,048	:	ON PETITION
Filed: November 9, 2006	:	
Attorney Docket No. 130575-11	:	

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

This application became abandoned March 12, 2007 for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed January 11, 2007. The Notice set a two month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 19, 2007.

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

The above-identified application has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, the petition is **GRANTED**.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/558,189	11/09/2006	Shan Jin	LUTZ 200695	1811

48116 7590 08/31/2010
FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

EXAMINER
ZHANG, XIANG

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
08/31/2010	PAPER

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

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

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115-1843

In re Application of
JIN, SHAN et al
Appl. No.: 11/558,189
Filed: November 9, 2006
For: **SELF-BACKHAUL METHOD AND APPARATUS IN WIRELESS COMMUNICATION NETWORKS**

DECISION ON PETITION

This is a decision on the petition filed June 24, 2010, to expunge information erroneously submitted in the above identified application.

Petitioner asserts the following: The documents submitted on June 23, 2010 via EFS-Web include the first filed Amendment under EFS ID No. 7872989 filed on June 23, 2010 at 11:35 (pages 1-9 from PDF Document "GECZ200799US01Amendment.PDF"). The Amendment to be expunged is unrelated to this application and was filed inadvertently.

A review of the file finds that the first Response filed June 23, 2010 was improperly submitted in the instant application.

Accordingly, the petition is **GRANTED**.

The first Response filed June 23, 2010 along with EFS Receipt in connection with this document for US Serial Number 12/141,545 have been removed (e.g. closed) from the electronic file wrapper for the instant application. The application has been forwarded to the examiner for action on the merits in due course.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/21/11

TO SPE OF : ART UNIT 3718

SUBJECT : Request for Certificate of Correction for Appl. No.: 11558304 Patent No.: 8002625

CofC mailroom date: 10/07/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes in the claims be approved?**

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments:

SPE PETER VO **Art Unit** 3718
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of :
Marco D. Capote et al. :
Application No. 11/558,320 : DECISION ON PETITION
Filed: November 9, 2006 :
Attorney Docket No. P0025891.00 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 8, 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 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3775 for appropriate action by the Examiner in the normal course of business on the reply received January 10, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MAILED
SEP 22 2011
OFFICE OF PETITIONS

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

In re Patent No.7,984,301	:	
Kaabouch, et al.	:	DECISION FOR REQUEST
Issue Date: July 19, 2011	:	FOR RECONSIDERATION
Application No. 11/558,367	:	OF PATENT TERM
Filed: November 9, 2006	:	ADJUSTMENT
Attorney Docket No.29900-0006001	:	

This is a decision on the "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed September 19, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from eight hundred eighty-three (883) days, to one thousand, one hundred and seventeen (1,017) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On July 19, 2011, the above-identified application matured into U.S. Patent No. 7,984,301, with a revised patent term of 883 days. By the instant petition, patentees assert that the patent term should be adjusted by 501 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). Patentees state:

> Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Request for Continued Examination was filed on November 12, 2010. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on March 8, 2011, thereby closing examination of the application on that date. Thus, no continued examination took place during 134 day period from March 8, 2011 (the mailing date of the Notice of Allowance) until June 19,

2011 (the date the patent was issued). Accordingly, 134 days for "B Delay" should have been included in addition to the 367 days accorded by the Director for a total B Delay of 501 days.

Excerpt taken from "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed September 19, 2011, p. 4.

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

---

[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 is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138(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.

---

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under

35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the

[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.

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

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

In this instance, the first request for continued examination was filed on November 12, 2010, and the patent issued by virtue of that request on July 19, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on November 12, 2010 and ending on July 19, 2011, is not included in calculating Office delay.

In view thereof, it is concluded that the patent term adjustment of 883 days indicated on the patent 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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DEC 02 2011
OFFICE OF PETITIONS

HOWREY, LLP - EAST
C/O IP DOCKETING DEPARTMENT
PO BOX 97351
WASHINGTON, DC 20090

In re Patent No. 7,858,359	:	
Issue Date: December 28, 2010	:	
Application No. 11/558,384	:	ON PETITION
Filed: November 9, 2006	:	
Attorney Docket No. 05569.0011.CNUS06	:	

This is a decision on the petition filed November 14, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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

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GARRANA TRAN LLP
2000 Bering
Suite 150
HOUSTON TX 77057

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AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Shah et al.	:	
Application No. 11/558444	:	
Filing or 371(c) Date: 11/10/2006	:	ON PETITION
Attorney Docket Number:	:	
DL005.0019	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2010, to revive the above-identified application.

This Petition is hereby **dismissed**.

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

Background

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 9, 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). Accordingly, the date of abandonment of this application is April 29, 2009[1].

Applicant files the present petition, and an Amendment/Remarks were filed June 19, 2009. Applicant provides in the petition that the reply filed May 9, 2009 is the reply to the final Office action as required by the petition to revive.

[1] Applicant filed a reply to the final Office action on June 19, 2009; however, the reply failed to include a request and fee for an extension of time. Applicant filed a request and fee for a one (1) month extension of time on August 19, 2009; however, at that time a three (3) month extension of time was required.

Applicable law, Rules and MPEP

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

The present petition and amendment

The Examiner has reviewed the Amendment filed May 9, 2009 and the amendment/remarks filed June 19, 2009 and concluded that the Amendment filed May 9, 2009 fails to place the application in condition for allowance.

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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: Hermsmeyer 3-1-3-2 (C)-US-NP	Patent Number: 7,668,081
Filing Date (or 371(b) or (f) Date): November 10, 2006	Issue Date: February 23, 2010
First Named Inventor: Christian Hermsmeyer	
Title: Preemptive transmission protection scheme for data services with high resilience demand	

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

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

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

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

Signature /Gregory J. Murgia/	Date August 10, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

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

☑ *Total of 1 forms are submitted.

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

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

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
25 James Way
Eatontown, NJ 07724

Mail Date: 08/16/2010

Applicant	: Christian Hermsmeyer	: DECISION ON REQUEST FOR
Patent Number	: 7668081	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/558,502	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **549** 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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IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT NY 13760

MAILED

AUG 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Andrew John Garrett et al.	:	
Application No. 11/558,582	:	DECISION ON PETITION
Filed: November 10, 2006	:	
Attorney Docket No.	:	
END920060063US1		

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit formal drawings on or before July 14, 2011, as required by the Notice of Allowability, mailed April 14, 2011. Accordingly, the date of abandonment of this application is 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 corrected formal drawings , (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Mark J. Friedman
Schmeiser, Olsen & Watts
22 Century Hill Drive
Suite 302
Latham, NY 12110

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SUITE 300
WASHINGTON, DC 20005-3960

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OFFICE OF PETITIONS

In re Application of	:	
Shin Chaki	:	
Application No. 11/558,585	:	DECISION GRANTING PETITION
Filed: November 10, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 403855	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 31, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2116 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

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SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Alan F. DeBauche	:	
Application No.: 11/558631	:	ON PETITION
Filing or 371(c) Date: 11/10/2006	:	
Attorney Docket Number:	:	
071068-0003	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 26, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed September 2, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on December 3, 2009. A Notice of Abandonment was mailed April 23, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

It is noted that Applicant filed a three (3) month extension of time with an amendment on May 1, 2009. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available.

Applicant should file a request for a refund of the extension of time fee, filed May 1, 2009. A copy of this decision should accompany the request.

This application is being referred to Technology Center Art Unit 3634 for processing of the response to the Office action filed with the petition in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/558,645	11/10/2006	Minoru Takahashi	299025US28	2620

22850 7590 12/14/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BOLLINGER, DAVID H

ART UNIT	PAPER NUMBER
3653	

NOTIFICATION DATE	DELIVERY MODE
12/14/2011	ELECTRONIC

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

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

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

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

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DEC 13 2011

OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, VA 22314

In re Application of:	:	
Minoru Takahashi et al.	:	**DECISION ON PETITION**
Application No. 11/558,645	:	**UNDER 37 CFR 1.181**
Filed: November 10, 2006	:	
Title: BELT DRIVE CONTROLLER AND	:	
IMAGE FORMING APPARATUS	:	
PROVIDED WITH SAME	:	

This is in response to the petition filed on June 28, 2011 under 37 CFR 1.181(a)(3) requesting that the Information Disclosure Statement (IDS) filed June 1, 2010 be considered.

The petition is DISMISSED as being moot.

A review of the record reveals that applicants filed an IDS on June 1, 2010. The examiner sent a requirement for restriction on June 18, 2010. Applicants submitted an election of species requirement on July 16, 2010 electing Species I. Subsequently the examiner issued a non-final rejection on September 24, 2010. Applicant submitted an amendment to the claims on November 12, 2010 to which the examiner mailed a notice of allowance on December 27, 2010. Thereafter, applicants submitted a Request for Continued Examination on March 15, 2011 to which the examiner mailed a second notice of allowance on April 1, 2011. The examiner initially never acknowledged or indicated if the IDS was considered. Applicants thereafter filed a petition on June 28, 2011 requesting that the IDS filed June 1, 2010 be considered.

Subsequent to the filing of the petition, the examiner corrected the oversight and considered the IDS in a supplemental notice of allowability mailed on September 16, 2011. Therefore, Applicant's requested relief has been given.

Telephone inquiries should be directed to Stefanos Karmis, Supervisory Patent Examiner, at (571) 272-6744.

Dave Talbott, Director
Patent Technology Center 3600
(571) 272-5150

dt/sk: 12/7/11
LM

OK TO ENTER: /C.C./

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee: Daniel DeWaal
Patent No.: 8,105,149 B2
Issued: January 31, 2012
Title: GAMING SYSTEM AND METHOD PROVIDING VENUE WIDE SIMULTANEOUS PLAYER PARTICIPATION BASED BONUS GAME
Docket No.: 3718611-03536

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

REQUEST FOR CERTIFICATE OF CORRECTION

PURSUANT TO 37 C.F.R. § 1.323

Dear Sir:

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

IN THE CLAIMS:

In Claim 1, Column 46, Line 22, replace "are" with --is--.

In Claim 1, Column 46, Line 29, between "the" and "winning" insert --at least one--.

In Claim 1, Column 46, Line 37, between "the" and "winning" insert -- at least one--.

In Claim 1, Column 46, Line 42, between "the" and "winning" insert --at least one--.

In Claim 1, Column 46, Line 49, between "the" and "losing" insert -- at least one--.

In Claim 1, Column 46, Line 59, before "winning" insert --at least one--.

In Claim 1, Column 46, Line 63, before "losing" insert --at least one--.

In Claim 6, Column 47, Line 15, between "the" and "winning" insert -- at least one--.

In Claim 7, Column 47, Line 21, between "the" and "winning" insert -- at least one--.

In Claim 7, Column 47, Line 22, between "the" and "losing" insert --at least one--.

In Claim 9, Column 47, Line 27, between "the" and "winning" insert -- at least one--.

In Claim 10, Column 47, Line 33, delete the first instance of "the."

In Claim 12, Column 47, Line 43, between "the" and "losing" insert --at least one--.

In Claim 14, Column 47, Line 50, between "the" and "winning" insert --at least one--.

In Claim 15, Column 47, Line 55, between "the" and "winning" insert --at least one--.

In Claim 16, Column 47, Lines 59 to 60, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 10, replace "are" with --is--.

In Claim 18, Column 48, Line 17, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 25, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 30, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 37, between "the" and "losing" insert --at least one--.

In Claim 18, Column 48, Line 49, before "winning" insert --at least one--.

In Claim 18, Column 48, Line 53, before "losing" insert --at least one--.

In Claim 23, Column 49, Line 3, between "the" and "winning" insert --at least one--.

In Claim 24, Column 49, Line 10, before "winning" insert --at least one--.

In Claim 24, Column 49, Line 11, before "losing" insert --at least one--.

In Claim 27, Column 49, Line 22, delete the first instance of "the."

In Claim 29, Column 50, Line 3, between "the" and "losing" insert --at least one--.

In Claim 31, Column 50, Line 10, between "the" and "winning" insert --at least one--.

In Claim 32, Column 50, Line 15, between "the" and "winning" insert --at least one--.

In Claim 33, Column 50, Line 19, before "winning" insert --at least one--.

REMARKS

Upon the careful review of recently issued U.S. Patent No. 8,105,149 B2, the above-listed mistakes were noted. Patentee prepared this request for correction in order to correct these mistakes. These mistakes are of a clerical nature and of minor character, and occurred in good faith. Thus, the correction of these mistakes does not constitute new matter and does not make necessary a reexamination of the patent. Further, the requested changes to the claims do not change the scope of Patentee's rights granted under this patent.

Patentee is hereby requesting the issuance of a Certificate of Correction pursuant to 37 C.F.R. § 1.323. A proposed Certificate of Correction is also submitted herewith.

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

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

If there are any questions, please telephone the undersigned.

Respectfully submitted,

K&L Gates LLP

By: _____

Holby M. Abern
Reg. No. 47,372
Customer No. 29159
Tel. No. (312) 781–6024

Dated: March 30, 2012

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,105,149 B2

APPLICATION NO.: 11/558,683

ISSUE DATE : January 31, 2012

INVENTOR(S) : Daniel DeWaal

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

IN THE CLAIMS:

In Claim 1, Column 46, Line 22, replace "are" with --is--.

In Claim 1, Column 46, Line 29, between "the" and "winning" insert --at least one--.

In Claim 1, Column 46, Line 37, between "the" and "winning" insert -- at least one--.

In Claim 1, Column 46, Line 42, between "the" and "winning" insert --at least one--.

In Claim 1, Column 46, Line 49, between "the" and "losing" insert -- at least one--.

In Claim 1, Column 46, Line 59, before "winning" insert --at least one--.

In Claim 1, Column 46, Line 63, before "losing" insert --at least one--.

In Claim 6, Column 47, Line 15, between "the" and "winning" insert -- at least one--.

In Claim 7, Column 47, Line 21, between "the" and "winning" insert -- at least one--.

In Claim 7, Column 47, Line 22, between "the" and "losing" insert --at least one--.

In Claim 9, Column 47, Line 27, between "the" and "winning" insert -- at least one--.

In Claim 10, Column 47, Line 33, delete the first instance of "the."

In Claim 12, Column 47, Line 43, between "the" and "losing" insert --at least one--.

In Claim 14, Column 47, Line 50, between "the" and "winning" insert --at least one--.

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

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

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

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,105,149 B2

APPLICATION NO.: 11/558,683

ISSUE DATE : January 31, 2012

INVENTOR(S) : Daniel DeWaal

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

IN THE CLAIMS:

In Claim 15, Column 47, Line 55, between "the" and "winning" insert --at least one--.

In Claim 16, Column 47, Lines 59 to 60, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 10, replace "are" with --is--.

In Claim 18, Column 48, Line 17, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 25, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 30, between "the" and "winning" insert --at least one--.

In Claim 18, Column 48, Line 37, between "the" and "losing" insert --at least one--.

In Claim 18, Column 48, Line 49, before "winning" insert --at least one--.

In Claim 18, Column 48, Line 53, before "losing" insert --at least one--.

In Claim 23, Column 49, Line 3, between "the" and "winning" insert --at least one--.

In Claim 24, Column 49, Line 10, before "winning" insert --at least one--.

In Claim 24, Column 49, Line 11, before "losing" insert --at least one--.

In Claim 27, Column 49, Line 22, delete the first instance of "the."

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

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

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

PTO/SB/44 (09-07)
Approved for use through 08/31/2013. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 8,105,149 B2

APPLICATION NO.: 11/558,683

ISSUE DATE : January 31, 2012

INVENTOR(S) : Daniel DeWaal

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

IN THE CLAIMS:

In Claim 29, Column 50, Line 3, between "the" and "losing" insert --at least one--.

In Claim 31, Column 50, Line 10, between "the" and "winning" insert --at least one--.

In Claim 32, Column 50, Line 15, between "the" and "winning" insert --at least one--.

In Claim 33, Column 50, Line 19, before "winning" insert --at least one--.

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

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

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

Newsome, Lamonte

From: Newsome, Lamonte
Sent: Tuesday, April 10, 2012 8:41 PM
To: Coburn, Corbett B.
Cc: Lewis, David L.
Subject: 11558683
Attachments: SPE's Reponse 9-19-11 (8).doc

Please review the attached document.

Examiner/SPE:

- Read the request from the attorney/applicant dated ___03/30/12_____
  - Print out the IMIS and indicate your approval, approval in part (please indicate what is denied and what is approved), or denial of the request and sign
  - Send the IMIS for scanning under the code COCX
  - Send me an email indicating that you've sent the COCX and I will look for your decision.

Thank you, I'm looking forward to hearing from you.

Lamonte M. Newsome

Certificate of Corrections

571-272-3421 (Voice)

571-273-3421 (Fax)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/10/12

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 11558683 Patent No.: 8105149

CofC mailroom date: 03/30/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes in the claims be approved?**

Yes

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: _____

CORBETT B. COBURN
PRIMARY EXAMINER
SPE

3714

Art Unit

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11558713
Filing Date	10-Nov-2006
First Named Inventor	Shuiping Long
Art Unit	2617
Examiner Name	NIZAR SIVJI
Attorney Docket Number	11005.0159-00000
Title	METHOD FOR ESTABLISHING HRPD NETWORK PACKET DATA SERVICE IN 1X NETWORK

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	/Weiguo Chen/
Name	Weiguo Chen
Registration Number	61878

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 20,2011

In re Application of :

Shuiping Long

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11558713

Filed : 10-Nov-2006

Attorney Docket No : 11005.0159-00000

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 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 2617 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/2/11

TO SPE OF : ART UNIT: 3741

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/558,760 Patent No. 7,832,212

CofC mailroom date 7/28/11

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

/Ehud Gartenberg/ **SPE** — 3741 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAY 20 2011
OFFICE OF PETITIONS

BALLY GAMING INC.
6601 S. BERMUDA ROAD
LAS VEGAS NV 89119

In re Application of	:	
Michael Shackelford et al.	:	
Application No. 11/558,827	:	DECISION ON PETITION
Filed: November 10, 2006	:	
Attorney Docket No. 11111-37JV06	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, September 16, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 17, 2010. A Notice of Abandonment was mailed on April 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 RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3718 for appropriate action by the Examiner in the normal course of business on the reply received April 15, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120213

DATE : February 14, 2012

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction on Patent No.: 8,011,937

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:

/TULSIDAS C 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

COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Alexis-Jean Laurent Naibo, et al.	:	
Application No. 11/558,861	:	DECISION ON PETITION
Filed: November 10, 2006	:	TO WITHDRAW
Attorney Docket No. BOBJ-075/01US 304661-2240	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

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

A review of the file record indicates that the power of attorney to Cooley LLP has been revoked by the applicant of the patent application on October 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Business Objects Americas; Business Objects S.A.**
SAP America, Inc.; Business Objects Software Ltd.
Business Objects Data Integration, Inc.
777 6th Street NW, Suite 1100, Attn: B. Galliani
Washington DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GE HEALTHCARE BIO-SCIENCES CORP.
MELISSA LECK
101 CARNEGIE CENTER
PATENT DEPARTMENT
PRINCETON NJ 08540

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Olle BJERNULF	:	
Application No. 11/558,939	:	DECISION ON PETITION
Filed: November 13, 2006	:	
Attorney Docket No. PU0032-CON	:	

This is a decision on the petition filed May 20, 2011.

The petition is **DISMISSED**.

Applicant request removal of the pre-exam response and replacement drawings submitted May 20, 2011 in the above application asserting that the documents were inadvertently filed.

A review of the petition filed indicates, the Office can not grant the petition at this time. The petition must be filed under 37 CFR 1.182 along with the petition fee of $400.

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

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 Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GE HEALTHCARE BIO-SCIENCES CORP.
MELISSA LECK
101 CARNEGIE CENTER
PATENT DEPARTMENT
PRINCETON NJ 08540

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of	:	
Olle BJERNULF al.	:	
Application No. 11/558,939	:	DECISION ON PETITION
Filed: May 07, 2010	:	
Attorney Docket No. 02960-22755US01	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed October 05, 2011.

The petition is DISMISSED.

Applicant request removal of the drawing transmittal and seven (7) sheets of replacement drawings from the above identified application, stating that they were inadvertently filed in the wrong application.

A review of the Office records indicates that in the detailed description of the invention, pages four (4) and five (5) of the originally filed specification indicates and provides a detailed discussion of the drawings. The drawings are part of the originally filed application papers and cannot be removed.

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

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

By mail: Mail Stop PETITIONS

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

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

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

Telephone inquiries relating to this decision should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **DEAN D. SMALL**
THE SMALL PATENT LAW GROUP, LLP
225 S. MERAMEC, SUITE 725
ST. LOUIS, MISSOURI 63105

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/27/11

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/558,979 Patent No. 7,790,770

CofC mailroom date 5/17/11

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: Approved in Part. Some changes do not have support in the original disclosure, unless Applicants can demonstrate otherwise. See the attachment for detail.

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

1626

SPE Art Unit

Case: **10761-US-NP**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

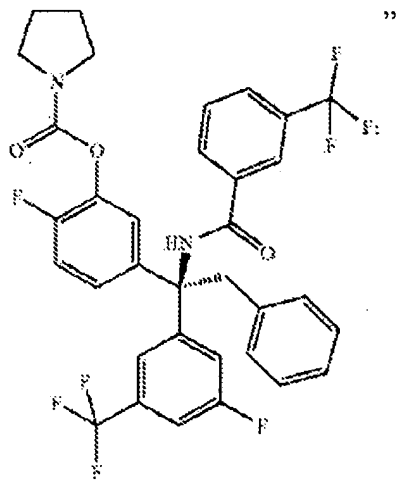
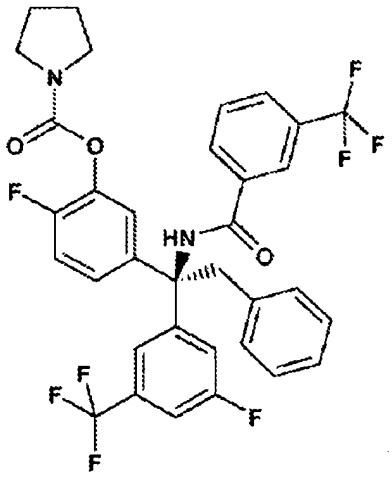
In the Claims:

Claim 1:

Column 1083, line 58, change "—OH,)" to -- "—OH), 3) --.

Column 1086, lines 66 and 67, change "—[(C=O)O_r]$_s$aryl" to -- —[(C=O)O_r]aryl --.

Column 1088, lines 32 to 48, change

"  " --  --

to

MAILING ADDRESS OF SENDER:
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

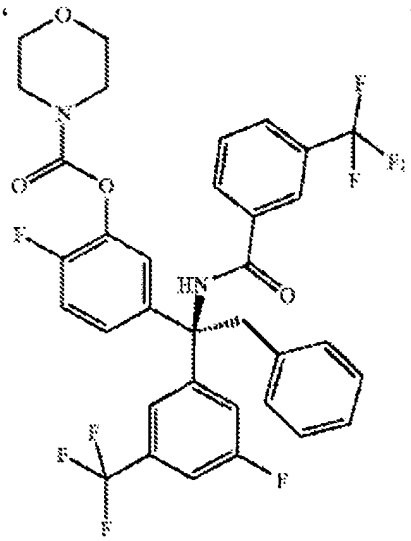
It is certified that there is an error in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims:

Claim 1 (continued):

Column 1088, lines 49 to 66, change

"



to

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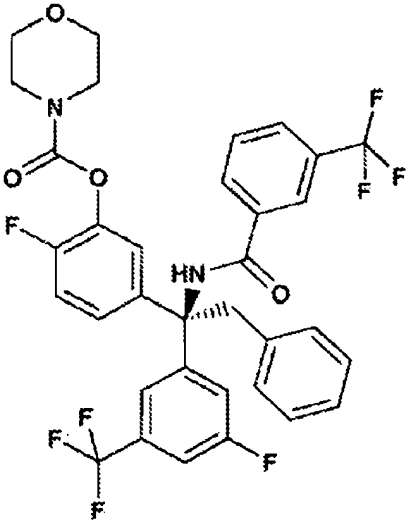

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

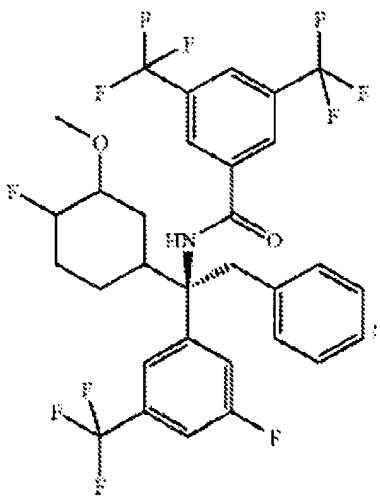
It is certified that there is an error in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims:

Claim 1 (continued):

Column 1089, line 29 to 44, change

"



to

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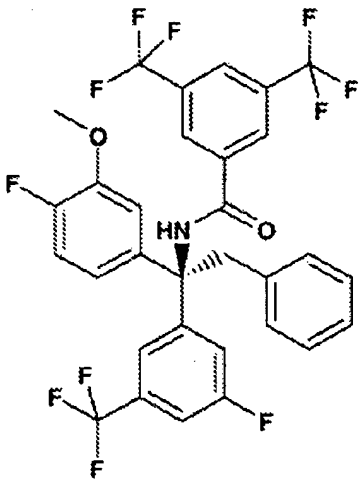

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CERTIFICATE OF CORRECTION

PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

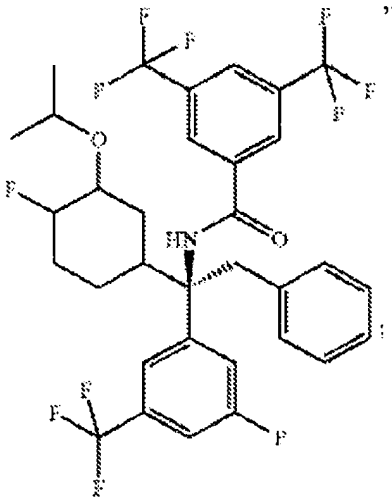
It is certified that there is an error in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims:

Claim 1 (continued):

Column 1089, lines 51 to 66, change

"



to

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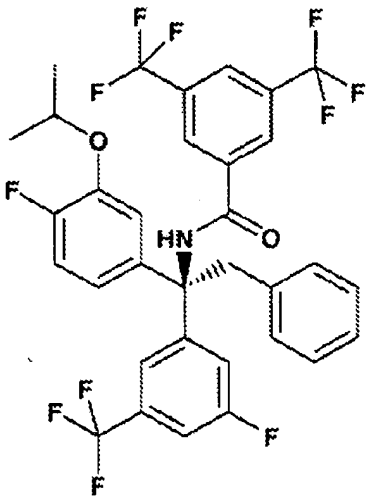

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

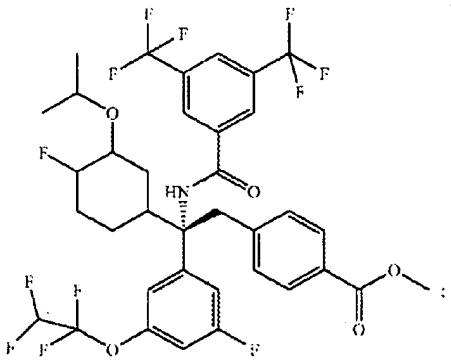
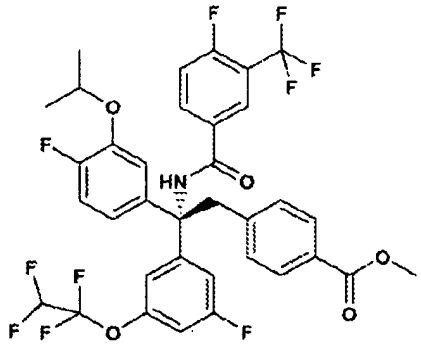
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

In the Claims:

Claim 1 (continued):

Column 1090, lines 1 to 16, change

"  " to --  --.

Claim 4:

Column 1093, line 51, change "6)" to -- (j) --.

Claim 7:

Column 1103, line 47, change "164=O" to -- 14) =O --.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

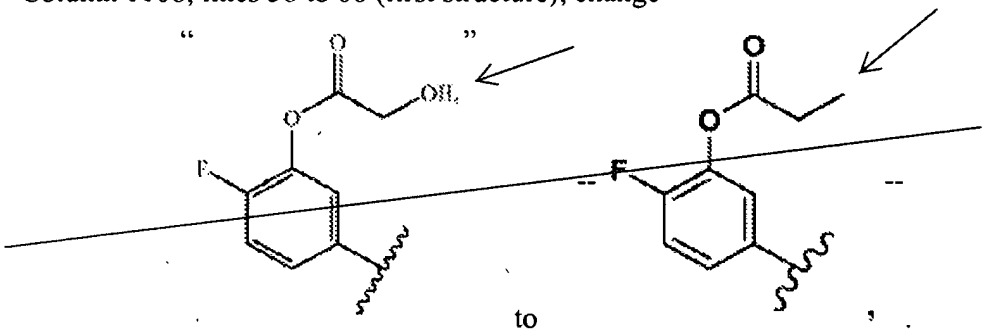
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

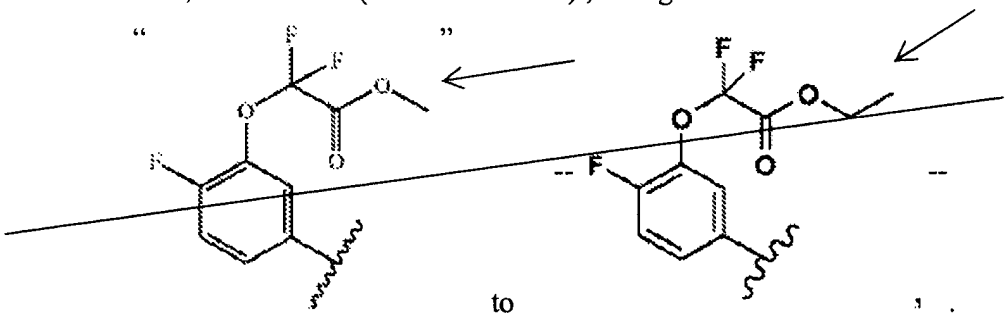
In the Claims:

Claim 9:

Column 1108, lines 58 to 66 (first structure), change



Column 1109, lines 3 to 11 (second structure) , change



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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

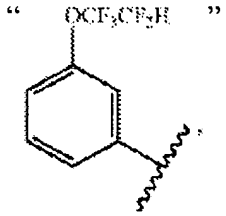
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

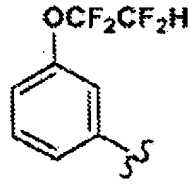
It is certified that there is an error in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims:

Claim 9 (continued):

Column 1114, lines 18 to 24 (second structure), change

" 

" to -- 

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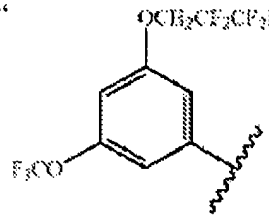
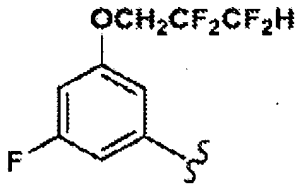
Column 1115, lines 14 to 20 (second structure), change

" 

" to -- 

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

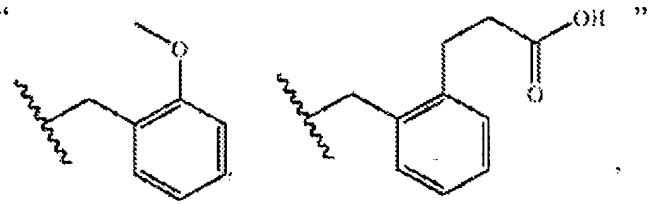
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

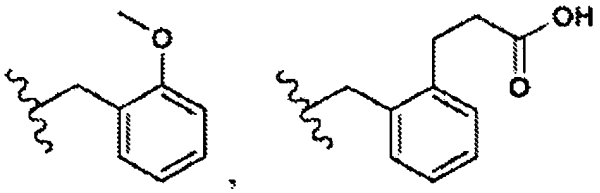
It is certified that there is an error in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims:

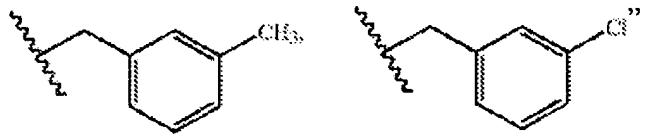
Claim 9 (continued):

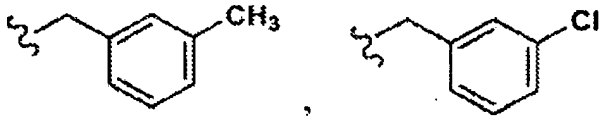
Column 1117, lines 15 to 20, change

"  " to

--  --.

Column 1117, lines 37 to 41, change

"  " to

--  --.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

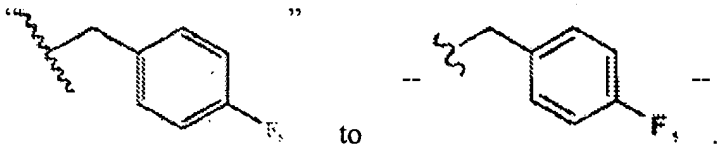
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

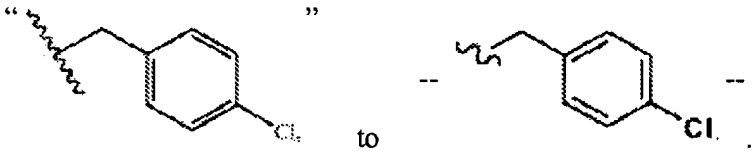
In the Claims:

Claim 9 (continued):

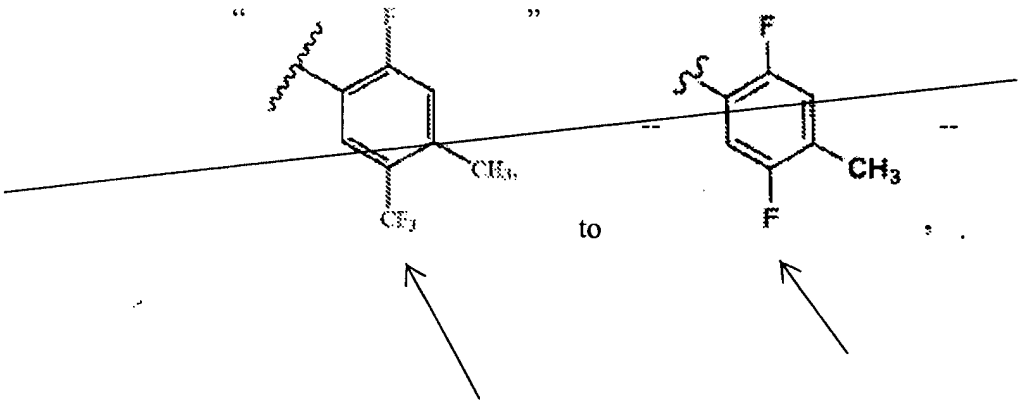
Column 1118, lines 62 to 66 (second structure), change



Column 1119, lines 3 to 7 (first structure), change



Column 1123, lines 19 to 25 (first structure), change



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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

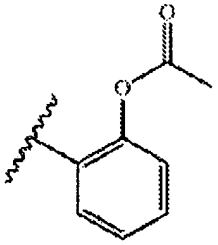
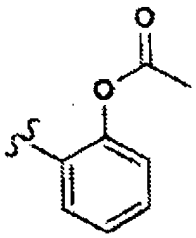
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

In the Claims:

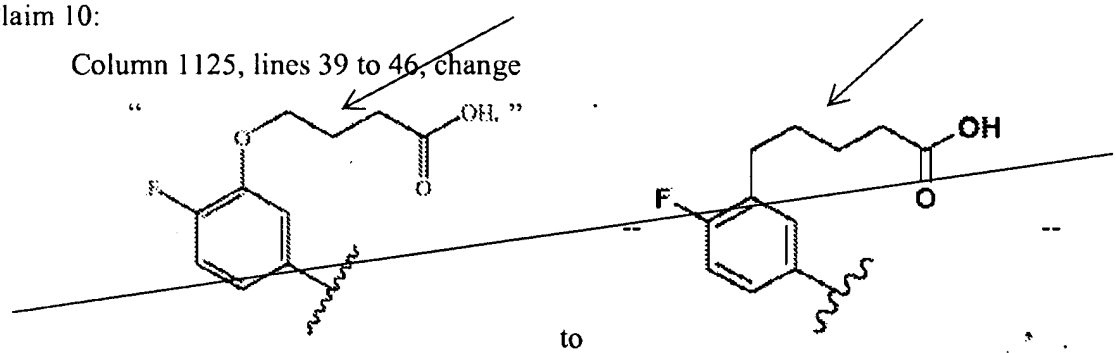
Claim 9 (continued):

Column 1123, lines 42 to 49 (second structure), change

"  ", to --  --.

Claim 10:

Column 1125, lines 39 to 46, change

" ", to --  --.

MAILING ADDRESS OF SENDER:
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Patent Department
P.O. Box 4000
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

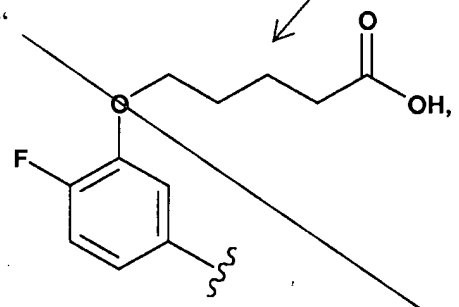
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

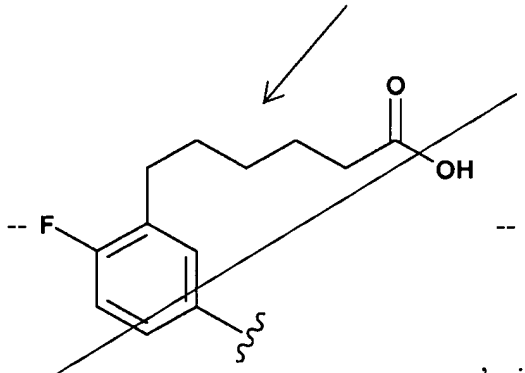
In the Claims:

Claim 10 (continued):

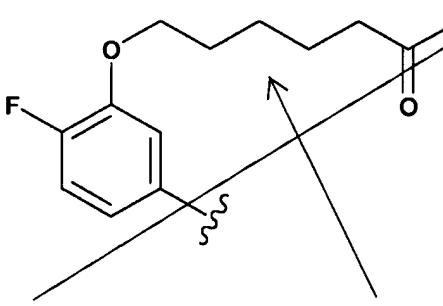
Column 1125, lines 49 to 57, change

"  "

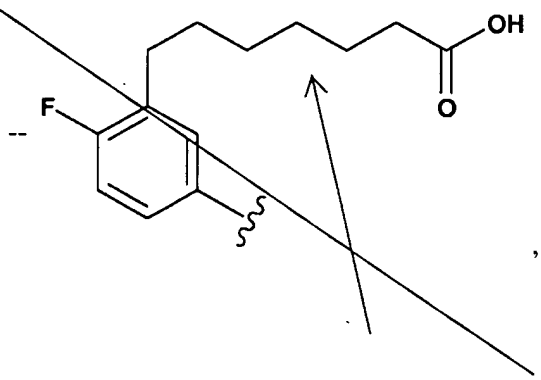
to

--  --

Column 1125, lines 58 to 65, change

"  "

to

--  --

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CERTIFICATE OF CORRECTION

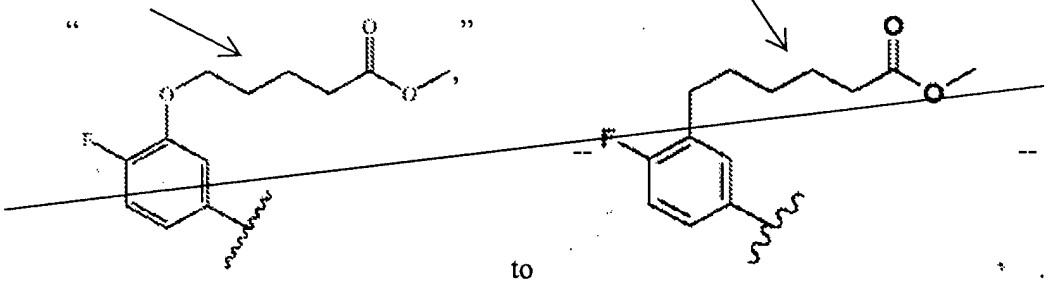
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

In the Claims:

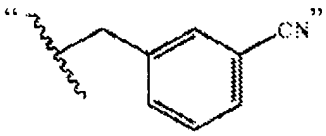
Claim 10 (continued):

Column 1126, lines 3 to 12, change

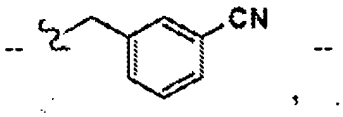
"  "

to

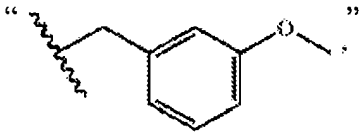
Column 1137, lines 3 to 6 (second structure), change

"  "

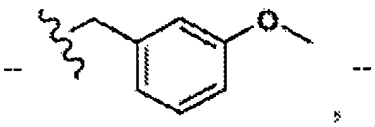
to



Column 1137, lines 8 to 12 (second structure), change

"  "

to



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CERTIFICATE OF CORRECTION

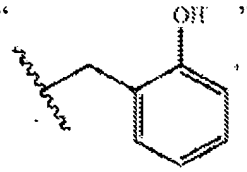
PATENT NO. : 7,790,770
DATED: : September 7, 2010
INVENTOR(S) : Mark E. Salvati et al.

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

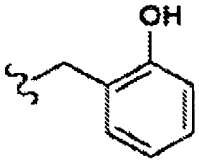
In the Claims:

Claim 10 (continued):

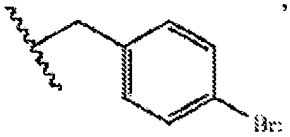
Column 1137, lines 35 to 39 (second structure), change

"  "

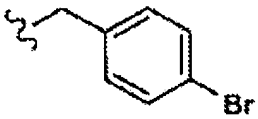
to

--  --

Column 1137, lines 61 to 65, change

"  "

to

--  --

Claim 11:

Columns 1143 and 1144, line 14, No. 572, change "methyiphenyl" to -- methylphenyl --.

Columns 1145 and 1146, line 46, No. 681, change "neopentyiphenyl" to -- neopentylphenyl --.

Columns 1147 and 1148, line 17, No. 729, change "isopentyiphenyl" to -- isopentylphenyl --.

MAILING ADDRESS OF SENDER:
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/14/11

TO SPE OF : ART UNIT: 1628

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/558,979 Patent No. 7,790,770

CofC mailroom date 7/6/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: All the changes have been approved.

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**

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

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Warren JOHNSON et al. :
Application No. 11/559,105 : ON PETITION
Filed: November 13, 2006 :
Attorney Docket No. 2006P24184US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 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 within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 21, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 22, 2009.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 21, 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)(1), an amendment under 37 CFR 1.116 that cancels all rejected claims or otherwise *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)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), an RCE, or the filing of a continuing application under 37 CFR 1.53(b). See the enclosed PTOL-303.

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 response on April 18, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Encl.: PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/559,105	Applicant(s) JOHNSON ET AL.	
	Examiner DAVID C. MELLON	Art Unit 1777	

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

THE REPLY FILED 18 April 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-4.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/D. C. M./
Examiner, Art Unit 1777

Continuation of 11. does NOT place the application in condition for allowance because: The proposed amendment to the claims raises new issues that would require further search and consideration. The claim amendment raises a new combination not previously considered by requiring a specific flow capacity for a single fluid (at least that appears to be what Applicant is attempting to claim). Furthermore, while Applicant is claiming a fluid in particular, the claim does not differentiate from the Selbie reference as Applicant has not specified nor required that the fluid be in an unchanged state. Finally, since claims are drawn towards an apparatus, the material worked upon fails to further limit or define the structure of the apparatus. Applicant should particularly point out and claim the structural features which differentiate from the prior art and/or more specifically describe the function of the instant invention in order to impart structure through function.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MANYWORLDS, INC.
510 BERING DRIVE
SUITE 470 (IP DEPARTMENT)
HOUSTON TX 77057

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Flinn et al.	:	
Application No. 11/559,145	:	DECISION ON PETITION
Filed: November 13, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Many-09A	:	

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. § 120, filed August 24, 2011.

The petition is **DISMISSED**.

The application as filed included a claim for priority to a PCT application. Petitioner seeks to amend the application to state that this application is National Stage on the International PCT application. More specifically, the amendment filed with the petition seeks to amend the application to state that:

> This application is the National Stage of International Application No.: PCT/US2005/011951, filed on April 8, 2005 …

This is not a proper reference. A review of the record reveals that this application is a U.S. national application for patent filed in the Office under 35 U.S.C. 111(a) and not an application which entered the national stage from an international application after compliance with 35 U.S.C. 371. This application was electronically filed as a utility application under 35 U.S.C. 111.

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

This application is being returned to Technology Center Art Unit 3623 to await applicant's response to the non-final Office action mailed August 3, 2011.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MANYWORLDS, INC.
510 BERING DRIVE
SUITE 470 (IP DEPARTMENT)
HOUSTON TX 77057

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Steven Flinn and	:	UNDER 37 CFR 1.78(a)(3)
Naomi Moneypenny	:	and
Application No. 11/559,145	:	DECISION ON PETITION
Filed: November 13, 2006	:	UNDER 37 CFR 1.78(a)(6)
Atty Docket No. Many-09A	:	

This is a decision on the renewed Petition to Accept Unintentionally Delayed Claim under 35 U.S.C. § 120, filed September 20, 2011, which is treated as a petition to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/US2005/011951 filed April 8, 2005), which claims priority to provisional application No. 60/572,565. Thus, this petition is also properly treated under 37 CFR 1.78(a)(6) for the benefit claim to the provisional application under 35 U.S.C. 119(e).

The petition is **GRANTED**.

By decision mailed September 9, 2011, the initial petition filed August 24, 2011 to accept an unintentionally delayed claim to priority was dismissed. The amendment submitted on petition did not set forth a claim for late priority. Rather, the amendment stated incorrectly that this §111 application was a national stage application of the PCT application (§371 application).

On instant renewed petition, applicants filed a new amendment containing a claim for late priority to the PCT application, which claims priority to the provisional application.

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 (5)(ii) respectively, and must be filed during the pendency of the nonprovisional application. 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 37 CFR § 1.78(a)(2)(i), and 35 U.S.C. § 119(e) and 37 CFR § 1.78(a)(5)(i), respectively, 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.

The instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for priority set forth on petition was not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR §§ 1.78(a)(2)(ii) have expired. Thus, the instant petition is appropriate. The petition includes the required statement of unintentional delay. The surcharge was paid on initial petition. The renewed petition includes the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2) and 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5).

In view thereof, all of the above requirements have been satisfied. The late claims for benefit of priority to the prior-filed application under 35 U.S.C. §§ 120 and 119(e) are accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and

(a)(2), and 35 U.S.C. §§ 119(e) and 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 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 PCT application and provisional application, accompanies this decision on petition. The claim under 35 U.S.C. § 119 to the PCT application has been deleted per the amendment.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3623 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) and 119(e) to the above-noted, prior-filed PCT application and provisional application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/559,145	11/13/2006	3623	550	Many-09A	20	3

CONFIRMATION NO. 3592

CORRECTED FILING RECEIPT

53928
MANYWORLDS, INC.
510 BERING DRIVE
SUITE 470 (IP DEPARTMENT)
HOUSTON, TX 77057

OC000000049963671

Date Mailed: 09/21/2011

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)

Steven Dennis Flinn, Houston, TX;
Naomi Felina Moneypenny, Houston, TX;

Assignment For Published Patent Application

MANYWORLDS, INC., Houston, TX

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US2005/011951 04/08/2005
which claims benefit of 60/572,565 05/20/2004

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

If Required, Foreign Filing License Granted: 09/21/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/559,145**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Adaptive Recombinant Process Methods

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/01/12

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/559152 Patent No.: 7879018

CofC mailroom date: 06/20/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes be made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

✓ **Approved** **All** changes apply.

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

Denied State the reasons for denial below.

Comments: _____

/Jack W Keith/ 3663
SPE **Art Unit**

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

Paper No.

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Watson et al.	:	DECISION ON APPLICATION
Application No. 11/559,253	:	FOR
Patent No. 7,829,705	:	PATENT TERM ADJUSTMENT
Filed: November 13, 2006	:	
Issued: November 9, 2010	:	
Attorney Docket No. 150070.403D2	:	
Title: ANTIVIRAL AGENTS	:	

This is a decision on the "REQEUST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed January 6, 2011. Patentee requests that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from thirty-six (36) days to fifty (50) 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 **fifty (50)** days.

A Notice of Allowance and Issue Fee Due was mailed on June 25, 2010, with an indication that the patent term adjustment to date was 0 days. This patent issued on November 9, 2010, with a patent term adjustment of 36 days.

Patentee has disputed one period of delay: the 14-day reduction associated with the filing of a paper after a notice of allowance has been mailed. 37 CFR § 1.704(c)(10) indicates that the submission of a either an amendment under § 1.312 or other

paper after a notice of allowance has been given or mailed will result the period of adjustment set forth in § 1.703, and the reduction will constitute the lesser of:

- 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;
- four months.

The aforementioned notice of Allowance and Issue Fee Due was mailed on June 25, 2010, along with an indication that multiple claims were allowed, including claims 54-56. On September 24, 2010, Patentee submitted a "REMARKS AFTER ALLOWANCE (UNDER 37 CFR 1.312)," requesting that the following error in the aforementioned notice of allowance be corrected: the notice should have indicated that multiple claims, including claims 54-58, had been allowed. Thirteen days later, on October 7, 2010, the Office mailed a Supplemental Notice of Allowability, which indicated that multiple claims, including claims 54-58, were allowed. The Office accorded a reduction of 14 days pursuant to 37 C.F.R. § 1.704(c)(10), as the date on which the supplemental response was filed is included in the period of delay.

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

With this petition, Patentee argues that the 14-day reduction is not warranted, as the submission of a request to correct an error in a notice of allowance after the mailing of a notice of allowance is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Patentee cites to MPEP § 2732 which sets forth, *in pertinent part*:

> "Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is **not** (emphasis included) considered a failure to engage in reasonable efforts to conclude processing or examination of an

[1] Petition, page 2.

> 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;" (emphasis added) and (7) letters related to government interests (e.g., those between NASA and the Office)."

Patentee's argument has been considered and has been found to be persuasive. The record supports a conclusion that the submission filed September 24, 2010 constituted a request to correct an error in a notice of allowance, and as such, is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Thus, the reduction of 14 days is not warranted and has been removed.

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

The patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **fifty (50) days.**

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,829,705 B2

DATED : **Nov. 9, 2010** **DRAFT**

INVENTOR(S) : **Watson 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 36 days

Delete the phrase "by 36 days" and insert – by 50 days --

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HAHN & VOIGHT PLLC
1012 14TH STREET, NW
SUITE 620
WASHINGTON DC 20005

MAILED

APR 09 2012

OFFICE OF PETITIONS

In re Application :
Takao Ukehara et al. :
Application No. 11/559,256 : DECISION ON APPLICATION
Filed: November 13, 2006 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. :
S-2490/CONT/CIP/DIV

This is in response to the Request for Reconsideration of Patent Term Adjustment filed March 27, 2012. Applicant requests that the determination of patent term adjustment be corrected from 507 days to 807 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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 of the patent term adjustment concerning those regulations until the patent has issued.

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

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.[2]

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

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

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Date: 12/15/11

Patent No. : 7962471 B2
Ser. No. : 11/559,357
Inventor(s) : **Adar , et al.**
Issued : **June 14, 2011**
Title : **USER PROFILE CLASSIFICATION BY WEB USAGE ANALYSIS**
Docket No. : **PARC-DA0050-US-DIV1**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

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

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

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

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

PVF -- PARC
c/o PARK, VAUGHAN, FLEMING & DOWLER LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Decision Date : September 2,2011

In re Application of :

Joseph Roth

Application No : 11559515

Filed : 14-Nov-2006

Attorney Docket No : 12807.U07

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed September 2,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

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

Office of Petitions

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	11559515
Filing Date	14-Nov-2006
First Named Inventor	Joseph Roth
Art Unit	1785
Examiner Name	BRUCE HESS
Attorney Docket Number	12807.U07
Title	TWO-SIDED THERMAL WRAP AROUND LABEL

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	/Paul W. Martin/
Name	Paul W. Martin
Registration Number	34870

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of:	:	
Hershkovitz et al.	:	
Pat. Num.: 7,671,729	:	
Issue Date: 03/02/2010	:	
Application No. 11/559666	:	ON PETITION
Filing or 371(c) Date: 11/14/2006	:	
Atty. Docket No. 2856.0030000	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182, filed May 12, 2011, requesting a duplicate Letters Patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person, in the Office of Data Management at (703) 756-1555.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: Ollie Person (FAX 571-270-9764)
Kimberly Terrell (FAX 571-270-9958)

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: PETT0103PUSP	Patent Number: 7664742
Filing Date (or 371(b) or (f) Date): Nov-14-2006	Issue Date: Feb-16-2010
First Named Inventor: PETTOVELLO, PRIMO M.	
Title: PEER-TO-PEER SEMANTIC INDEXING	

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

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

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

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

Signature /John E Nemazi/	Date 13-Aug-2010
Name (Print/Typed) John E. Nemazi	Registration Number 30,876

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

☐ *Total of _____ forms are submitted.

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

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

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

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 09/08/2010

Applicant	: Primo M. Pettovello	: DECISION ON REQUEST FOR
Patent Number	: 7664742	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/559,887	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **205** 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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DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
James F. Salzman	:	
Application No. 11/559,987	:	DECISION ON PETITION
Filed: November 15, 2006	:	
Attorney Docket No. TI 60903	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 22, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 23, 2010. A Notice of Abandonment was mailed October 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2894 for further appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 11/16/2010
Patent No.	: 7,722,344 B2
Serial No.	: 11/560,103
Inventor(s)	: Morris
Issue Date	: January 11, 2010
Title	: **IMPELLER-DRIVE SHAFT CONSTRUCTION FOR A FUEL PUMP**
Doc./File No.	: **ATEX 9518US**

Re: Consideration for Certificate of Correction

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

Respecting the alleged error(s) in your request, on the title page, item (57) Abstreact: Line 13, comparison of the printed patent with the corresponding location in the application file reveals that there is no discrepancy. Therefore, no correction is in order here under Rule 1.322 or 1.323.

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

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

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

Polster, Lieder, Woodruff & Lucchesi, L.C.
12412 Powerscourt Dr. Suite 200
St. Louis MO 63131-3615

ecw

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United States Patent and Trademark Office
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of :
Alexander, et al. :
Application No. 11/560,125 : ON PETITION
Filed: November 15, 2006 :
Attorney Docket No. 24998-11028 :

This is a decision on the petition filed February 28, 2011 under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration under 37 CFR 1.131.

The petition is granted to the extent infra.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only one of the three joint inventors has agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to April 24, 2006.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question.[1] Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require each inventor to make declaration. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See, In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being referred to Technology Center AU 2614 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3205. Inquiries concerning the examination or status of the application should be directed to the Technology Center.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

[1] If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate. See, MPEP 715.04(C).

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SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Hongyou FAN	:	
Application No. 11/560,191	:	DECISION ON PETITION
Filed: November 28, 2006	:	
Attorney Docket No. SD-10324.1/109340	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 09, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 30, 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 December 01, 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) 272-4231.

This application is being referred to Technology Center AU 1736 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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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DADE BEHRING INC.
LAW AND PATENTS
1717 DEERFIELD ROAD
DEERFIELD IL 6015

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Jay Mark Walters et al	:	
Application No. 11/560,220	:	DECISION ON PETITION
Filed: November 15, 2006	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 2005P59113US01	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 18, 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.

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

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

This application is being referred to Technology Center AU 1773 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

Cc:

SIEMENS HEALTHCARE DIAGNOSTICS INC.
LAW AND PATENTS
1717 DEERFIELD ROAD
DEERFIELD, IL 60015-0778

PTO/SB/131 (02-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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

Attorney Docket Number:	16359-0067001		
Application Number:	11/560,248	Filing Date (or 371(b) or (f) Date):	November 15, 2006
Patent Number:	7,663,988	Issue Date:	February 16, 2010
First Named Inventor:	Yasuhiro Muraoka		
Title:	Optical Disc Apparatus and Method of Setting Defocus Value Thereof		

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

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

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

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

Signature /Marie Smyth, Reg. No. 65,404/	Date August 3, 2010
Name: (Print/Type) Marie Smyth	Registration Number: 65,404

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

Mail Date: 08/11/2010

Applicant	: Yasuhiro Muraoka	: DECISION ON REQUEST FOR
Patent Number	: 7663988	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/560,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **638** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PTO/SB/131 (01-10)
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 060135U2	Patent Number: 7,657,791
Filing Date (or 371(b) or (f) Date): 11-15-2006	Issue Date: 2-2-2010
First Named Inventor: Lucian Codrescu	
Title: METHOD AND SYSTEM FOR A DIGITAL SIGNAL PROCESSOR DEBUGGING DURING POWER TRANSITIONS	

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 /Peter Michael Kamarchik/	Date 08-02-2010
Name (Print/Typed) Peter Michael Kamarchik	Registration Number 63529

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

☑ *Total of 1 forms are submitted.

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

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

PTO/SB/131 (01-10)
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Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

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

Privacy Act Statement

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

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

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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/11/2010

Applicant	: Lucian Codrescu	: DECISION ON REQUEST FOR
Patent Number	: 7657791	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/560,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **434** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED

AUG 03 2011

OFFICE OF PETITIONS

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

In re Application of	:	
Ryo Tsutsui, et al.	:	
Application No. 11/560,390	:	DECISION ON PETITION
Filed: November 16, 2006	:	
Attorney Docket No. TI-37099	:	

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

This application became abandoned for failure to timely submit corrected formal drawings on or before June 11, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 11, 2011. Accordingly, the date of abandonment of this application is June 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 corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay..

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

The drawings have been approved by the USPTO draftsperson.

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

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Commissioner for Patents
United States Patent and Trademark Office
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MICHAEL BLAINE BROOKS, PC
P.O. BOX 1630
SIMI VALLEY CA 93062-1630

MAILED
NOV 26 2010
OFFICE OF PETITIONS

In re Application of	:	
Sachin G. Deshpande	:	
Application No. 11/560,457	:	DECISION DISMISSING PETITION
Filed: November 16, 2006	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. SLA1986	:	

This is a decision on the petition under 37 CFR 1.313(a), filed November 24, 2010, 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 September 1, 2010, with the issue fee being due on or before December 1, 2010. 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 2444 for appropriate processing of the RCE filed November 24, 2010, and for consideration of the concurrently filed information disclosure statement.

/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

SEP 1 4 2010

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

In re Application of
Pamela Simon
Application No. 11/560,529
Filed: November 16, 2006
For: IMPROVED CART

DECISION ON PETITION UNDER 37 CFR §1.91

This is a decision on the petition under 37 CFR 1.91, filed July 20, 2009, for acceptance of a prototype of the invention to be entered in the above identified application as an exhibit.

The petition is **GRANTED**.

Petitioner requests acceptance of a prototype of the invention to be entered into the record as an exhibit under 37 CFR 1.91. As set forth in 37 CFR 1.91, a model or exhibit will not be admitted as part of the record of an application unless it: (1) substantially conforms to the requirements of § 1.52 or § 1.84; (2) is specifically required by the Office; or (3) is filed with a petition under this section including: (i) the fee set forth in § 1.17(h); and (ii) an explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

Petitioner has provided the required fee and the explanation of why entry of the model in the file record is necessary to demonstrate patentability. Petitioner states that entry of the model/prototype of the invention is necessary to demonstrate prior invention by the Applicant in that it constitutes evidence of conception and reduction to practice prior to the effective filing date of the Gilmore reference (US Patent Publication 2007/0018425) that was cited as the basis of rejection under 35 U.S.C. § 102(e). Because Petitioner has met the requirements under CFR 1.91, the petition is granted.

Regardless of the grant of this petition, Petitioner's request is now technically moot because the Examiner has reopened prosecution of this application and changed the basis of the rejection of Applicant's claims set forth in the Examiner's Non-Final Rejection mailed out on March 31, 2010.

Any questions regarding this decision should be directed to Supervisory Patent Examiner J. Allen Shriver at (571) 272-6698.

David Talbott, Director
Technology Center 3600
(571) 272-5150

Jas/lm: 8/9/2010

LM

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United States Patent and Trademark Office
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MAILED

APR 08 2011

OFFICE OF PETITIONS

FROST BROWN TODD LLC
2200 PNC CENTER
201 E FIFTH STREET
CINCINNATI OH 45202

In re
Gaydos, et al.
Application No. 11/560,540
Filed: November 16, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed March 14, 2011.

The fee deficiency submission under 37 CFR 1.28 of $895 is hereby accepted.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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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ISHMAN LAW FIRM P.C.
9660 FALLS OF NEUSE ROAD
SUITE 138-350
RALEIGH NC 27615

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Olge Nemtyshkin et al.	:	
Application No. 11/560,879	:	DECISION ON PETITION
Filed: November 17, 2006	:	
Attorney Docket No. 7315-04-06	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 09, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 09, 2010. Accordingly, the date of abandonment of this application is June 10, 2010.

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

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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ISHMAN LAW FIRM P.C.
9660 FALLS OF NEUSE ROAD
SUITE 138-350
RALEIGH NC 27615

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Olge Nemtyshkin et al.	:	
Application No. 11/560,888	:	DECISION ON PETITION
Filed: November 17, 2006	:	
Attorney Docket No. 7316-04-06	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 18, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 18, 2009. Accordingly, the date of abandonment of this application is March 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of 755, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GENERAL ELECTRIC COMPANY
GE GLOBAL PATENT OPERATION
2 CORPORATE DRIVE, SUITE 648
SHELTON CT 06484

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of	:	
ELKADY et al	:	
Application No. 11/560,931	:	ON PETITION
Filed: November 17, 2006	:	
Attorney Docket No. RD 217237	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 12, 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 February 13, 2011. A Notice of Abandonment was mailed June 8, 2011.

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

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

This application is being referred to Technology Center AU 3741 for processing of the RCE and the amendment submitted in accordance with 37 CFR 1.114 within the normal course of business.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/19/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11561008 Patent No.: 7760865

CofC mailroom date: 01/05/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Curtis Kuntz/ AU 2614

SPE Art Unit

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11561038
Filing Date	17-Nov-2006
First Named Inventor	Tamio MATSUMURA
Art Unit	2891
Examiner Name	MARK TORNOW
Attorney Docket Number	299464US2
Title	METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE

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	/Aldo Martinez/
Name	Aldo Martinez
Registration Number	61357

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : January 12, 2012

In re Application of :

Tamio MATSUMURA

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11561038

Filed : 17-Nov-2006

Attorney Docket No : 299464US2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed January 12, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2891 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak MI 48067

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Kalynushkin et al.	:	
Application No. 11/561,082	:	DECISION ON PETITION
Filed: November 17, 2006	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.28(c)
060735.00006	:	
Title: APPARATUS FOR FORMING	:	
STRUCTURED MATERIAL FOR ENERGY	:	
STORAGE DEVICE AND METHOD	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on January 6, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

The deficiency payment of $865 is acknowledged.

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.

The Office of Patent Publication will be notified of this decision.

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Eduardo J. Quinones
525 Okeechobee Blvd.
15th Floor
West Palm Beach, FL 33401

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of :
Frantzeskakis et al. :
Application No. 11/561,093 :
Filed: November 17, 2006 :
Attorney Dkt. No. 17841US01 :
For: METHOD AND SYSTEM FOR :
DIRECT AND POLAR MODULATION :
USING A TWO INPUT PLL :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE 37 CFR 1.705" filed November 8, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from six hundred thirty-five (635) days to one thousand forty-seven (1,047) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

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

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

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

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

---

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

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

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

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

Anthony Knight
Director
Office of Petitions

UNITED STATES 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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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,570,037	:	
Issue Date: August 4, 2009	:	
Application No. 11/561,104	:	NOTICE
Filed: November 17, 2006	:	
Attorney Docket No. 01640567AA	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 15, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JEFFREY C. HOOD
MEYERTONS HOOD KIVLIN
KOWERT & GOETZEL PC
P.O. BOX 398
AUSTIN TX 78767-0398

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of :
Peterson, et al. :
Application No. 11/561,109 : DECISION
Filed/Deposited: 13 October, 2006 :
Attorney Docket No. 6150-03200 :

\This is a decision on the petition filed on 17 February, 2011, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

It appears that there was an oversight as satisfaction of petition requirements, and that is addressed below.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

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

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 12 August, 2010, with required reply due absent extension of time on or before 12 November, 2010.

The application went abandoned by operation of law after midnight 12 November, 2010.

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

On 17 February, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action. Petitioner appears to track and respond to most, but not quite all of the requirements under the rule, and while Petitioner provides a copy of the docket sheet and due date calendar, as well as a description of the docketing system and search and non-discovery, Petitioner has failed to state that the Office action was not received at the correspondence address of record.

The Office mailed the Notice of Abandonment on 25 February, 2011.

Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

***

> 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.[1]

***

If Petitioner is unable to comply with and/or otherwise satisfy these requirements, Petitioner may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)); and

- those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to inquire and disclose.[2]

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

---

[1] *See*: MPEP §711.03(c) (I)(A).

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

STATUTES, REGULATIONS

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).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

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

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

Application No. 11/561,109

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

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

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

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

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

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

The Office mailed the Notice of Abandonment on 14 October, 2010.

disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Peterson, et al.	:	
Application No. 11/561,109	:	DECISION
Filed/Deposited: 13 October, 2006	:	
Attorney Docket No. 6150-03200	:	

This is a decision on the petition filed on 25 April, 2011, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

Petitioner's attentions are directed to the discussion below of the 25 April, 2011, petition and the Notice to Petitioner set forth therein.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 12 August, 2010, with required reply due absent extension of time on or before 12 November, 2010.

The application went abandoned by operation of law after midnight 12 November, 2010.

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

On 17 February, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action. Petitioner appears to track and respond to most, but not quite all of the requirements under the rule, and while Petitioner provides a copy of the docket sheet and due date calendar, as well as a description of the docketing system and search and non-discovery, Petitioner failed, *inter alia*, to state that the Office action was not received at the correspondence address of record. (The Office mailed the Notice of Abandonment on 25 February, 2011.) The petition was dismissed on 33 March, 2011.

On 25 April, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt of the Office action. Within Petitioner's description of the docketing system as submitted on 25 April, 2011, Petitioner appears not to have included the statement that the system has been demonstrated to be sufficiently reliable. *The Office now places Petitioner on Notice that it has construed Petitioner's declaration to state that the docketing system has demonstrated itself to be sufficiently reliable. If this is not correct, Petitioner* ***must*** *so immediately notify the Office*. Otherwise, Petitioner appears to have satisfied the requirements set forth at the guidance in the Commentary at MPEP §711.03(c)(I).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

***

> 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.[1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

---

[1] *See*: MPEP §711.03(c) (I)(A).

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

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **granted** and the 25 February, 2011, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 2116 for further processing—including the remailing of the Office action—in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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

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

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal 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.
11/561,109	11/17/2006	Keith D. Peterson	6150-03200	6915

7590 08/12/2010

Jeffrey C. Hood
Meyertons Hood Kivlin Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767-0398

EXAMINER
YANCHUS III, PAUL B

ART UNIT	PAPER NUMBER
2116	

MAIL DATE	DELIVERY MODE
08/12/2010	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.

Office Action Summary	Application No.	Applicant(s)	
	11/561,109	PETERSON ET AL.	
	Examiner	Art Unit	
	PAUL B. YANCHUS III	2116	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,12 and 21-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,5,6,12 and 21-23* is/are rejected.

7)☒ Claim(s) *2 and 4* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This non-final office action is in response to communications filed on 4/21/10.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang, US Patent Application Publication no. 2004/0187039.

Regarding claim 1, Yang discloses a system comprising:

a functional block configured to perform one or more system functions [system circuitry other than the microprocessor (ex. CPU, display, paragraph 0020]; and

a controller block [microprocessor] coupled to the functional block and configured to couple to a power supply that is configured to provide auxiliary power and main power to the system [when system is in a SHUTDOWN state, auxiliary power is supplied to power just the microprocessor in the system and in an ON state, main power is supplied to the system including the CPU, paragraph 0021], wherein the controller block is configured to automatically assert a control signal to the functional block in response to the power supply being switched on and providing main power to the system [when a slide switch and a power button are both activated, main power is

available and the system is transitioned to the ON state. The microprocessor controls the system transitioning to the ON state, paragraph 0021];

wherein in response to the control signal being automatically asserted by the controller, the functional block is configured to instruct the system to turn on [the system will be transitioned to the ON state by the microprocessor, paragraph 0021]; and

wherein the controller is configured to keep the system turned off when auxiliary power is applied to the system at a time the system is turned off [When a slide switch is activated, the system leaves an OFF state and enters a SHUTDOWN state in which the microprocessor is powered by auxiliary power. The microprocessor keeps the system in the SHUTDOWN state until a power button is activated, paragraph 0021].

Regarding claim 3, Yang discloses that a gas gauge will communicate signals to the microprocessor indicating the power level of the device [paragraph 0029]. If the power level is too low the system will instantly turn off [paragraph 0029].

Regarding claim 6, Yan discloses that the system is a circuit board [Figure 1 and paragraph 0020].

Regarding claim 21, Yang discloses a method for managing booting up (turning on) and shutting off a system, the method comprising:

entering a first state, wherein the first state indicates that auxiliary power is present in the system and the system is off [When a slide switch is activated, the system enters a SHUTDOWN state in which auxiliary power is provided to a microprocessor controller and main power is not supplied to other system components, paragraph 0021];

transitioning from the first state to a second state if main power is present in the system and the system is on, wherein the second state indicates that the system is on [system transitions from SHUTDOWN state to an ON state, when a power button is activated to supply main power to the other system components, paragraph 0021];

transitioning from the first state to a third state if main power is present in the system and the system is off [system transitions to a STANDBY state in which the system is non-operational, but main power is still supplied to the system when the power button is pressed, Figure 3 and paragraph 0021];

transitioning from the third state to the second state if the system is on [system transitions from the STANDBY state to the ON state when the power button/hot key is pressed, Figure 3];

transitioning from the second state to the first state if there is no main power present in the system [system will inherently transition to from the ON state to the SHUTDOWN state when main power is removed from the system when the system is in the ON state];

transitioning from the second state to a fourth state if an instant off feature is enabled in the system and the system is instructed to shut off [instant off is initiated when it is determined that the available operating voltage is less than a cut-off voltage level, Figure 6]; and

transitioning from the fourth state to the first state if the system is off [after it is determined that the available operating voltage is less than a cut-off voltage level, the system is transitioned to the SHUTDOWN mode, Figure 6].

Regarding claim 22, Yang discloses that the SHUTDOWN MODE is entered when a slide switch is activated, causing auxiliary power to be provided to the microprocessor [paragraph 0021]. Yan further discloses that the system comprises a circuit board plugged into a chassis [Figure 1 and paragraph 0020].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang, US Patent Application Publication no. 2004/0187039.

Regarding claim 5, Yang discloses that the functional block includes a CPU coupled to a chipset [Figure 1 and paragraph 0020] and discloses that the controller block is a microprocessor [paragraph 0020]. Yang is silent as to the configuration of the power-control circuitry. Examiner takes official notice that finite state machines are well known types of circuits for performing control functions and may be implemented using microprocessor circuits. It would have been obvious to one of ordinary skill in the art to attempt to implement a well known finite state machine using the microprocessor in Yang to perform the power control functions.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson et al., US Patent no. 6,601,167 [Gibson], in view of Applicant's Admitted Prior Art [AAPA].

Regarding claim 12, Gibson discloses a method for booting up (turning on) a system comprising a chassis with a power supply operable to provide power to the system, and a circuit board inserted into the chassis, the method comprising:

switching on the power supply to provide main power to the system [column 3, lines 15-17];

in response to said switching on the power supply, the circuit board receiving from the power supply a feedback signal indicating that the power supply is providing main power to the system [power-good or reset signal generator receives a signal from power supply indicating it has been turned on and is supplying the proper power level to the system, Figure 1 and column 3, lines 14-20];

automatically asserting a control signal on the circuit board in response to said receiving the feedback signal indicating that the power supply is providing main power to the system [power good or reset signal is generated when power-good or reset signal generator receives the signal from power supply indicating it has been turned on and is supplying the proper power level to the system, Figure 1 and column 3, lines 14-20], wherein said automatically asserting the control signal on the circuit board is performed regardless of the presence of auxiliary power in the system at the time said switching on the power supply is performed [the signal is generated every time the power supply is turned on and supplying power at the proper level, column 3, lines 14-20]; and

the system booting up in response to said automatically asserting the control signal [boot loader is enabled by assertion of the power good signal, column 3, lines 45-51].

Gibson is silent as to the type of power supply used in the system. AAPA discloses that power supplies that provide both auxiliary and main power to systems are conventionally used in computer systems [paragraph 0005]. It would have been obvious to one of ordinary skill in the art to use a conventional auxiliary and main power providing power supply as the power supply in Gibson to ensure that the system is compliant with conventional standards, such as the ATX specification.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang, US Patent Application Publication no. 2004/0187039, in view of Applicant's Admitted Prior Art [AAPA].

Yang discloses a power and booting management method for a computer system. Schmidt does not disclose that the chassis and circuit board are PXI devices. As, disclosed by AAPA, PXI devices are well known in the art [paragraphs 0002 and 0003]. It would have been obvious to one of ordinary skill in the art to attempt to apply the Yang management method to a system comprising well known PXI computing devices in order to improve the system power and booting management of those devices.

Allowable Subject Matter

Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-6, 12 and 21-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL B. YANCHUS III whose telephone number is (571)272-3678. The examiner can normally be reached on Mon-Fri 10AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Lee can be reached on (571) 272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul B Yanchus/
Examiner, Art Unit 2116

August 1, 2010

/Thomas Lee/
Supervisory Patent Examiner, Art Unit 2115

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 23 2011

OFFICE OF PETITIONS

TI Law Group
2055 Junction Avenue, #205
San Jose CA 95131-2116

In re Application of :
Tracy PIRNACK et al. : ON PETITION
Application No. 11/561,336 :
Filed: November 17, 2006 :
Atty. Docket No.: 101-P475/P4136US1

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 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 Requirement for Restriction/Election mailed September 16, 2010, which set a shortened statutory period for reply of one (1) month. No reply was received, and no extensions of fees under 37 CFR 1.136(a) were obtained. The application became abandoned October 17, 2010. A Notice of Abandonment was mailed April 5, 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 Requirement for Restriction/Election mailed September 16, 2010, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Requirement for Restriction/Election 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 3625 for further action on the filed Response.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/561,388	11/18/2006	Mario Rabinowitz		7432

41857 7590 08/26/2010
MARIO RABINOWITZ
715 LAKEMEAD WAY
REDWOOD CITY, CA 94062

EXAMINER
TRA, TUYEN Q

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
08/26/2010	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

MARIO RABINOWITZ
715 LAKEMEAD WAY
REDWOOD CITY CA 94062

In re Application of Mario Rabinowitz	:	
Application No.: 11/561,388	:	DECISION ON PETITION
Filed: November 18, 2006	:	UNDER 37 C.F.R. § 1.59
For: STABLE INDUCED ALIGNMENT OF	:	
MINI MIRRORS FOR SOLAR ENERGY	:	
CONCENTRATION AND OTHER	:	
OPTICAL FUNCTIONS	:	

This is a decision on the petition under 37 C.F.R. §1.59(b), filed June 2, 2010, to expunge the substitute Specification and Abstract filed May 25, 2010 inadvertently and erroneously submitted on May 25, 2010 (Electronically Acknowledgement Receipt EFS ID #7681130) from the above-identified application.

The petition is DENIED.

Petitioner requests that the Specification (20 pages) and Abstract (1 page) submitted on May 25, 2010, be expunged from the record because they "were inadvertently and erroneously submitted to the file of application S/N 11/561,388. The intended submission was directed to a different application file."

A grantable petition to expunge information unintentionally submitted in a patent application must satisfy the conditions set forth in M.P.E.P. § 724.05, which states:

"II. INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.
A request to expunge information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be treated on a case-by-case basis. Applicants should note that unidentified information that is a trade secret, proprietary, or subject to a protective order that is submitted in an Information Disclosure Statement may inadvertently be placed in an Office prior art search file by the examiner due to the lack of such identification and may not be retrievable. If a petition to expunge is not filed prior to the mailing of the notice of allowability, the materials submitted under MPEP § 724.02 will be released to the public upon the issuance of the application as a patent and upon the filing of a request and the appropriate fee (37 CFR 1.14)."

The petition does not satisfy all the conditions required for a grantable petition to expunge information unintentionally or inadvertently filed. The papers submitted May 25, 2010 (Electronically Acknowledgement Receipt EFS ID #7681130) will remain in the file record.

It is noted that while the papers filed May 25, 2010 will remain in the application file, these papers will not be entered as parts of the patent to be issued from this application.

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

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/561,438	11/20/2006	Robert P. Morris	1409/US	7520

49277 7590 01/31/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
DAS, CHAMELI

ART UNIT	PAPER NUMBER
2192	

MAIL DATE	DELIVERY MODE
01/31/2011	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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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

January 28, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/561438
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 July 16, 2010.

The petition is **GRANTED**.

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

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

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

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

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John A. Demos
July 7, 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 April 26, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 26, 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

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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	1409/US	7520

49277 7590 12/16/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
DAS, CHAMELI

ART UNIT	PAPER NUMBER
2197	

DATE MAILED: 12/16/2011

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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December 12, 2011

John A. Demos
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 and the application identified above is suspended for three (3) months from the mailing date of this letter.**

Pursuant to applicant's request filed on 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

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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	1409/US	7520

49277 7590 03/22/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
DAS, CHAMELI

ART UNIT	PAPER NUMBER
2197	

MAIL DATE	DELIVERY MODE
03/22/2012	PAPER

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

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

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John Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/561,438
Filed: November 20, 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 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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Date April 26, 2011

Patent No. :7897429
Ser. No. :11/561448
Inventor(s) :Stephen R. Forrest et al.
Issued :March 1, 2011
Title :ORGANIC HYBRID PLANAR NANOCRYSTALLINE BULK HETEROJUNCTIONS

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

	Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer) Support 1-866-217-9197 571-272-4100

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (571) 272-9005.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272- 9005

Finnegan, Henderson, Farrabow
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, DC 2001-4413

/arg

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

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,897,429	:	
Issue Date: March 1, 2011	:	
Application No. 11/561,448	:	ON PETITION
Filed: November 20, 2006	:	
Attorney Docket No. 10762.0041-00	:	

This is a decision on the petition filed August 24, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/561,470	11/20/2006	Alex Zhu	COOP 100 DIV	7575

23579 7590 09/07/2011
Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

EXAMINER
WEHBE, ANNE MARIE SABRINA

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
09/07/2011	PAPER

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

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

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Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

In re Application of:
Alex Zhu
Serial No.: 11/561,470
Filed: November 20, 2006
Attorney Docket No.: **COOP 100 DIV**

: PETITION DECISION

This is in response to the letter which is being treated as a petition under 37 CFR § 1.59(b), filed August 16, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that a document submitted on June 22, 2011 be expunged from the record as it was entered in error. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/561,485	11/20/2006	Jay S. Walker	03-024-C1	7598

22927 7590 01/11/2012
WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

EXAMINER
HSU, RYAN

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
01/11/2012	PAPER

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

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

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Alexandria, VA 22311
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WALKER DIGITAL MANAGEMENT, LLC ::
2 HIGH RIDGE PARK ::
STAMFORD CT 06905 :
::

In re Application of:
WALKER, JAY S. et al
Serial No.: 11/561,485
Filed: Nov. 20, 2006
Attorney Docket No.: 03-024-C1
Title: MULTIPLAYER GAMING DEVICE AND METHODS

DECISION ON PETITION to Request a New Office Action

This is a decision on the petition filed on November 18, 2011 seeking a new Office action with a new time period for response because the Office action mailed on April 6, 2011 was unclear. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the November 18, 2011 petition, the petitioner requests the final Office action of April 6, 2011 be reissued with a new time period for response because the final Office action contains inconsistent information. In particular, on the Office Action Summary page, the examiner checked the Box 2b indicated the action as a non-final Office action. However, on page 8, the Conclusion Paragraph of the Office action, the examiner clearly written in bold capital letters that "THIS ACTION IS MADE FINAL". On October 4, 2011, a complete response to the final Office action was filed. Petitioner did not explain why the inconsistent information was not discovered during preparation of the response filed on October 4, 2011. In the petition, petitioner stated that the ambiguity was not discovered until receipt of the Advisory Action mailed on November 4, 2011.

A review of the record does not show any request for clarification after receipt of the final Office action of April 6, 2011 made by the applicant. Therefore, the examiner could not have known there was inconsistent information in the final Office action of April 6, 2011. Since the

application is now abandoned, the request for a clear Office action can not be granted under MPEP § 710.06[1].

It is also noted that the instant petition to request a clear Office action was filed more than seven months after the mailing date of the final Office action of April 4, 2011. Pursuant to 37 CFR 1.181(f)[2], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested reissuance of the final Office action with a new time period for response will not be granted. Based on the reasons as stated above, petitioner's request to reissue of a new final Office action with new time period for response is hereby dismissed as untimely.

Conclusion

The request to reissue the final Office action with a new time period for response will not be granted. The final Office action of April 6, 2011 stands.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.

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

PETITION DISMISSED AS UNTIMELY.

Donald T. Hajec, Director
Technology Center 3700

---

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

[2] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

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Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
MAR 15 2012
OFFICE OF PETITIONS

In re Application of :
TOSHIHIRO OHTANI :
Application No. 11/561,505 : DECISION ON PETITION
Filed: November 20, 2006 :
Attorney Docket No. 1826.1211 :

This is a decision on the "PETITION UNDER 37 CFR 1.181(A) TO ACCEPT RCE AND WITHDRAW THE HOLDING OF ABANDONMENT" filed November 18, 2011.

This application became abandoned on October 1, 2011, for applicant's failure to pay the issue fee and publication fee with the three month statutory period from the mailing of the Notice of Allowance on June 30, 2011. On October 25, 2011, the Office mailed a Notice of Abandonment. On November 18, 2011, applicant filed the present petition requesting that the Office accept the RCE filed September 30, 2011, withdraw the holding of abandonment, and issue a new Notice of Allowance.

In the present petition, applicant asserts the following:

> Applicant electronically filed an Information Disclosure Statement (IDS) on September 28, 2011 as noted above. Applicant soon thereafter contacted the Examiner and requested that the IDS be considered prior to payment of the issue fee, if possible. As the Applicant did not receive any correspondence or other contact from the Examiner indicating the Examiner would consider the IDS, Applicant filed a Request for Continued Examination on September 30, 2011 instead of paying the Issue/Publication fee to have the Information Disclosure Statement filed on September 28, 2011 officially considered.
>
> On October 4, 2011 (after the RCE was filed and the issue fee was due) the Examiner mailed a Supplemental Notice of Allowability indicating that the IDS filed on September 28, 2011 had been considered.
>
> On September 30, 2011 when the issue fee was due and when the RCE was filed the applicant could not have known that the IDS had been considered because the Supplemental Notice of Allowability was not mailed until four days later.

> Since the RCE was timely and properly filed, it is believed that the Notice of Abandonment was improperly mailed.
>
> It is respectfully requested that the Notice of Abandonment be withdrawn and a new Notice of Allowance be issued.

Petition, 11/18/11, pp. 1-2.

A review of the application history reveals that the Office mailed a Notice of Allowance and Fee(s) Due on June 30, 2011, setting a three-month statutory period to pay the issue fee and publication fee. On August 5, 2011, applicant filed an Information Disclosure Statement (and fee). On August 18, 2011, the Examiner mailed a Supplemental Notice of Allowability, in which he indicated his consideration of the Information Disclosure Statement submitted on August 5, 2011. On September 28, 2011, applicant filed a duplicate of the Information Disclosure Statement (and fee) submitted on August 5, 2011, and previously considered by the Examiner on August 18, 2011. On September 30, 2011, applicant filed a Request for Continued Examination (and fee). On October 4, 2011, the Examiner mailed a Supplemental Notice of Allowance in response to the Information Disclosure Statement. Thereafter, on October 19, 2011, the Office mailed a Notice of Improper Request for Continued Examination notifying applicant that the RCE filed September 30, 2011, was improper because it was not accompanied by a submission as required by 37 CFR 1.114, and that the time period for reply set in the Notice of Allowance continued to run from its mailing date.

As indicated above, the Information Disclosure Statement filed September 28, 2011, and intended as a submission, is a duplicate of the Information Disclosure Statement filed August 5, 2011. The Information Disclosure Statement was already considered by the Examiner and acknowledged in the Supplemental Notice of Allowability mailed August 18, 2011. The fact that they were submitted on different days is not controlling. The Information Disclosure Statement filed on September 28, 2011, contained no new information for the Examiner to consider, and therefore, is not a submission complying with the requirements of 37 CFR 1.114. Thus, the RCE is improper.

As an improper RCE will not operate to toll the running of the time period set in the Notice of Allowance for reply, the Office properly held the application abandoned. Accordingly, the petition is **DISMISSED**. Any request for reconsideration must be submitted within TWO MONTHS of the mailing date of this decision. No extensions of this time period are available. See 37 CFR 1.181(f). The request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.181."

In the alternative, applicant may wish to file a petition under 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 § 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 § 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/561,512	11/20/2006	James George Wayda	DHP0057 US	7641

71874 7590 12/22/2010
DOT HILL SYSTEMS CORPORATION
1351 South Sunset Street
Longmont, CO 80501

EXAMINER
NGUYEN, TANH Q

ART UNIT	PAPER NUMBER
2182	

NOTIFICATION DATE	DELIVERY MODE
12/22/2010	ELECTRONIC

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

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

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

Tom.Lavan@dothill.com
T_Lavan@msn.com

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DOT HILL SYSTEMS CORPORATION
1351 South Sunset Street
Longmont CO 80501

Applicant: Wayda et al.
Appl. No.: 11/561,512
Filing Date: November 20, 2006
Title: DATA REPLICATION METHOD AND APPARATUS
Attorney Docket No.: DHP0057 US
Pub. No.: US 2007/0186001 A1
Pub. Date: August 9, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 10, 2010, for the above-identified application.

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

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

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

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

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

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

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

By facsimile: 571-273-8300

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

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

Adjustment date: 12/22/2010 KKING1
12/13/2010 INTEFSW 00004415 505020 11561512
01 FC:1504 300.00 CR

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HALLIBURTON ENERGY SERVICES
P.O. BOX 819052
DALLAS, TX 75381-9052

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Application of :
Miguel H. Pettinato et al :
Application No. 11/561,524 : ON PETITION
Filed: November 20, 2006 :
Attorney Docket No. 2006-IP-022115 U1 USA

This is a decision on the petition, filed June 22, 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 June 1, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

This matter is being referred to Technology Center AU 3676 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

cc: Marlin R. Smith
Smith IP Services, P.C.
P.O. Box 997
Rockwall, TX 75087

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

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HALLIBURTON ENERGY SERVICES
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DALLAS TX 75381-9052

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Application of :
Miguel H. Pettinato et al :
Application No. 11/561,524 : DECISION GRANTING PETITION
Filed: November 20, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2006-IP-022115 U1 USA :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 24, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 19, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210. This matter is being referred to Technology Center AU 3676 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

cc: Smith IP Services, P.C.
P.O. Box 997
Rockwall, TX 75087

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

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SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Shinichi Arakawa	:	
Application No. 11/561,590	:	DECISION GRANTING PETITION
Filed: November 20, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09792909-6808	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 5, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 5, 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 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11561615	Confirmation Number	7815	Filing Date	2006-11-20
Attorney Docket Number (optional)	53047-64731	Art Unit	3695	Examiner	Pollock, Gregory A
First Named Inventor	Ronald S. Indeck				
Title of Invention	Method and Apparatus for Processing Financial Information at Hardware Speeds Using FPGA Devices				

Attention: Office of Petitions
An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Mark	A.	Franklin	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

● (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Benjamin L. Volk, Jr./	Date (YYYY-MM-DD)	2011-07-05
Name	Benjamin L. Volk, Jr./	Registration Number	48017

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Application of
Ronald S. Indeck

Application No. 11561615

Filed: November 20,2006

Attorney Docket No. 53047-64731

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 05-JUL-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

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

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PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA PA 19103

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of Kalkanoglu et al Application No. 11/561,762 Filed: November 20, 2006 Attorney Docket No. 2005-228	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 17, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed 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. §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 application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1787 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

/KOC/
Karen Creasy
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/561,762	11/20/2006	1787	1630	2005-228	30	3

CONFIRMATION NO. 8041

CORRECTED FILING RECEIPT

27569
PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA, PA 19103

OC000000044898125

Date Mailed: 12/10/2010

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

Applicant(s)

Husnu M. Kalkanoglu, Swarthmore, PA;
Keith C. Hong, Lititz, PA;
Gregory F. Jacobs, Oreland, PA;

Power of Attorney: The patent practitioners associated with Customer Number 27569

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/597,894 12/22/2005
and claims benefit of 60/597,903 12/23/2005

Foreign Applications

If Required, Foreign Filing License Granted: 01/17/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/561,762**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Roofing Products Including Mixtures of Algae-Resistant Roofing Granules

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).

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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :

DALCHER, Gregory W. :
Application No. 11/561,809 :
Filed: November 20, 2006 :
Attorney Docket No. **NAI1P563/05.084.01** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2011.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/561,839	11/20/2006	Denny Charles Cormier		8176

71749 7590 06/27/2011
DENNY CORMIER
12711 NETTLES DRIVE # 3
NEWPORT NEWS, VA 23606

EXAMINER
GREEN, RICHARD R

ART UNIT	PAPER NUMBER
3644	

MAIL DATE	DELIVERY MODE
06/27/2011	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.

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JUN 2 7 2011

Denny Cormier
#C279
11712 Jefferson Ave
Newport News, VA 23606

In re Application of: Denny C. Cormier	:	**DECISION ON PETITION**
Application No. 11/561,839	:	**TO WITHDRAW**
Filed: November 20, 2006	:	**FINALITY OF ACTION**
Title: METHOD AND DEVICE TO GENERATE	:	**UNDER 37 CFR 1.181**
A TRANSVERSE CASIMIR FORCE FOR	:	
PROPULSION, GUIDANCE AND	:	
MANEUVERING OF A SPACE VEHICLE	:	

This is in response to the petition filed on September 15, 2010 under 37 CFR 1.181 requesting the withdrawal of the finality of the Office action mailed April 16, 2010 as being premature.

The petition is **DISMISSED as moot.**

Applicant alleges that the final Office action mailed April 16, 2010 was premature in accordance with the guidelines of MPEP 706.07(a) in that the art used to reject the amendments filed on December 21, 2009 was "not cited on an Information Disclosure Statement by the Applicant" and the applicant was not given opportunity to respond nor did the examiner suggest how the applicant could make amendment to overcome the rejections. Applicant alleges that the examiner failed to offer suggestions or proposed amendment regarding possible allowable claims.

A review of the record reveals that in response to the June 5, 2009 non-final Office action applicant submitted an amendment on November 2, 2009, and a supplemental amendment on November 29, 2009 which was retransmitted on November 30, 2009. In response to a notice of noncompliance mailed December 10, 2009, applicant submitted another amendment on December 21, 2009. By amendments, applicant cancelled original claims 1-19, added new claims 20-43, and amended the drawings. A final Office action was mailed on April 16, 2010 in which claims 26-30 and 37-43 were rejected, and claims 20-25 and 31-36 were withdrawn from consideration as being directed to a non-elected invention.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment 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). The finality of the Office action mailed on April 16, 2010 was proper due to the fact that applicant added new claims 20-43 which are of different scope than the previously rejected claims. The new claims 20-43 necessitate new grounds of rejection.

Applicant argues that the examiner misrepresented the prior art (US patent 3,375,141 to Julius and US patent 4,200,472 to Chappell) in the final Office action. It is noted that where differences of opinion concern the denial of patent claims because of prior art, and the questions thereby raised relate to the merits, then the appeal process has long been provided by statute. The MPEP clearly states under 37 CFR 1.191(a) that an applicant for a patent dissatisfied with the examiner's decision in the second or final rejection of his or her claims may appeal to the Board for review of the examiner's rejection. Thus, the application of the references to support the rejection of the claims by the examiner in this application is a matter appealable to the Board. It is not reviewable by petition.

As for applicant's assertion that the examiner failed to provide suggestions regarding possible allowable claims, MPEP 707.07(j) states that "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." The fact that claims 26-30 and 37-43 were rejected is evidence that there is no allowable subject matter. Therefore, applicant's request for drafted claim(s) cannot be accommodated.

Since the filing of the petition, the period for response to the final Office action has expired on October 16, 2010 which was the statutory 6 month date for responding. Because the request for reconsideration filed July 6, 2010 failed to place the application in condition for allowance, and no further response from the applicant were filed, the application has become abandoned. A notice of abandonment was mailed to applicant on June 20, 2011. Therefore, the petition is dismissed as moot.

Telephone inquiries should be directed to Timothy D. Collins, Supervisory Patent examiner, at (571) 272-6886.

Katherine Matecki

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

tdc/lm: 06/07/11

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In re Patent No. 7,949,943	: DECISION ON
Michaud, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/561,845	: of PATENT TERM ADJUSTMENT
Issue Date: May 24, 2011	:
Filed: November 20, 2006	:
Attorney Docket No. 07844-0273002	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed June 27, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from nine hundred eighty-one (981) days to one thousand one hundred nineteen (1119) days.

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

On May 24, 2011, the instant application matured into U.S. Patent No. 7,949,943 with a patent term adjustment of nine hundred eighty-one (981) days. The Office determined a patent term adjustment of 981 days based upon 736 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 311 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 0 days of Applicant delay and 66 days of overlap between "A" and "B" delay.

Patentee argues that even though he filed an RCE on September 28, 2010, he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on January 7, 2011 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 138 additional days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

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

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

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

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

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

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 311 days based on the application having been filed under 35 U.S.C. 111(a) on November 20, 2006 and a request for continued examination under 132(b) having been filed on September 28, 2010. In

other words, the 138 day period beginning on the date of mailing of the notice of allowance on January 7, 2011 to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, (580 F. Supp. 2d 138), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than

three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 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.

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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.

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 procedures3 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).

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

In this instance, a request for continued examination was filed on September 28, 2010, and the patent issued by virtue of that request on May 24, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on September 28, 2010 and ending on May 24, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 981 days indicated on the patent is correct.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/05/11

TO SPE OF : ART UNIT: 2166 Attn: ALAM HOSAIN T (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/561853 Patent No.: 7603385

CofC Mailroom date: 12/29/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
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Palm Location 7580

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593 or 703-756-1814

Thank You For Your Assistance

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

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

Comments: Changes are approved as they do not change the scope of the invention

/Hosain T Alam/ GAU 2166

SPE Art Unit

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DAVID MICHAEL KORPI
405 MONTEREY AVENUE
PACIFIC GROVE CA 93950

In re Application of
David M. Korpi
Application No. 11/562,058
Filed: November 21, 2006
Attorney Docket No. 07-288-PTU-INT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 28, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned January 15, 2010 for failure to timely file a reply to the Final Office action mailed October 14, 2009. Accordingly, a Notice of Abandonment was mailed May 10, 2010.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of October 14, 2009, within the time period for response. The only proper reply to a final Office action is an amendment placing the

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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)).

application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on October 14, 2009, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

JOHN NIELSEN
LARIVIERE, GRUBMAN & PAYNE, LLP
POST OFFICE BOX 3140
MONTEREY, CA 93942

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/562,058	Applicant(s) KORPI, DAVID M.	
	Examiner CAITLIN FOGARTY	Art Unit 1733	

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

THE REPLY FILED 28 January 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-21*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Caitlin Fogarty/
Examiner, Art Unit 1733

Continuation of 3. NOTE: the amendments to the thickness in claims 1, 17, and 21 and the content of new claim 22 change the scope of the claims and were not present in the original claims but rather were taken from the specification and therefore would require further consideration and search.

Continuation of 11. does NOT place the application in condition for allowance because: the amended claims have not been entered as discussed above. Applicant argues that Ma does not disclose any thicknesses over 0.8 mm and such does not anticipate materials within the range recited in Applicant's independent claims. The Examiner misinterpreted the Ma reference and agrees that the highest thickness taught by Ma is 0.8 mm. However, the Examiner takes the position that a prima facie case of obviousness exists in regards to the thickness because it would have been obvious to one of ordinary skill in the art to adjust the thickness of the resonant member to a desired thickness based on the end use of the mechanical resonator with expected success. See MPEP 2144.04 IV. The MPEP states that where the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device is not patentably distinct from the prior art device.

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DAVID MICHAEL KORPI
405 MONTEREY AVENUE
PACIFIC GROVE CA 93950

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of
David M. Korpi
Application No. 11/562,058
Filed: November 21, 2006
Attorney Docket No. 07-288-PTU-INT

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed May 24, 2011 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 15, 2010 for failure to timely file a reply to the Final Office action mailed October 14, 2009. Accordingly, a Notice of Abandonment was mailed May 10, 2010. A petition filed January 28, 2011 was dismissed in a decision mailed May 24, 2011, because the examiner indicated that the amendment filed with the petition did not prima facie place the application in condition for allowance.

In response thereof, 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 1793 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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OCT 08 2010
OFFICE OF PETITIONS

In re Application of
Peter D. KARABINIS, et *al.*
Application No. 11/562,094
Filed: November 21, 2006
Attorney Docket No. **9301-82CT**

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

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
Patent Department
Two International Place
Boston MA 02110

In re Application of Joachim Schurig Application No. 11/562,110 Filed: November 21, 2006 Attorney Docket No. **2007232-0002**	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 November 17, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Brenda H. Jarrell or any attorneys/agents associated with Customer Number 24280 does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

I would also like to bring to petitioner's attention that the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

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

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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DEC 15 2010

OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
Patent Department
Two International Place
Boston MA 02110

In re Application of	:	
Joachim Schurig	:	DECISION ON PETITION
Application No. 11/562,113	:	TO WITHDRAW
Filed: November 21, 2006	:	FROM RECORD
Attorney Docket No. **2007232-0003**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed November 17, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Brenda H. Jarrell or any attorneys/agents associated with Customer Number 24280 does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

I would also like to bring to petitioner's attention that the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

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

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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CHOATE, HALL & STEWART LLP
PATENT DEPARTMENT
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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DEC 13 2010

OFFICE OF PETITIONS

In re Application of

SCHURIG, Joachim
Application No. 11/562,116
Filed: November 21, 2006
Attorney Docket No. **2007232-0004**

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 17, 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 Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Masters et al.	:	
Application No. 11/562213	:	
Filing or 371(c) Date: 11/21/2006	:	ON PETITION
Attorney Docket Number: BIO-008CP1	:	

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

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 18, 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 April 19, 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 application is being referred to Technology Center Art Unit 1773 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

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OFFICE OF PETITIONS

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

In re Application of	:
Palu et al.	:
Application No. 11/562224	: DECISION ON PETITIONS
Filing or 371(c) Date: 11/21/2006	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10209.1050	:

This is a decision on the Petition Under 37 CFR 1.78, Petition to Accept Unintentionally Delayed Benefit Claim, filed July 21, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment. The petition is properly treated as a renewed petition under 37 CFR §§ 1.78(a)(3) and (a)(6).

The petition is **DISMISSED.**

Background

The February 23, 2009 petition

A Petition to Accept Unintentionally Delayed Benefit Claim in the present application was filed February 23, 2009, wherein Applicant attempted to claim priority of the present application, in relevant part, as a continuation-in-part of application no. 11/360,550, filed February 23, 2006, which is a divisional of application no. 10/285,359, filed October 31, 2002, which claims priority to provisional application no. 60/333,343, filed November 2, 2001.

The petition was dismissed in a Decision mailed March 9, 2009. The Decision informed petitioner that a review of Office records revealed that continuity does not exist between prior application no. 11/360,550, filed February 23, 2006, and application no. 10/285,359, filed October 31, 2002, which claims priority to provisional application no. 60/333,343, filed November 2, 2001. A review of the Preliminary Amendment filed in application no. 11/360,550 revealed that the priority claim therein is improper because the Amendment fails to state the relationship (CIP, CON, DIV) of the applications.

Further to this, a review of Office records revealed that continuity does not exist between prior applications application no.10/993,883, filed November 19, 2004, and application no. 10/286,167,

filed November 1, 2002, because the benefit claim in 10/993,883 was made to application no. 10/286,187.

The October 5, 2009 petition

Petitioner filed a renewed petition on October 5, 2009, and included a Supplemental Amendment for Application Serial Number 11/360,550, in an apparent attempt to correct the priority claim therein to state that Application Serial Number 11/360,550 is a divisional of United States Patent Serial No. 10/285,359 dated October 31, 2002.... Petitioner also included a copy of a Preliminary Amendment filed in Application Serial Number 10/993883, where the benefit claim to application no. 10/286,167, filed November 1, 2002, was timely corrected. Office records correctly reflect the benefit claim in 10/993,883 was made to application no. 10/286,167

The petition was dismissed in a Decision mailed April 9, 2010. The Decision informed petitioner that the Supplemental Amendment for Application Serial Number 11/360,550, filed with the present petition in the present application, to correct the benefit claim in application no. 11/360,550, to state that Application Serial Number 11/360,550 is a divisional of United States Patent Serial No. 10/285,359 dated October 31, 2002, was insufficient to perfect the benefit claim[1]. 37 CFR 1.78(a)(2)(ii) requires the reference to have been submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the reference is presented after the time period provided by paragraph (a)(2)(ii) of 37 CFR 1.78, the claim may be accepted if the reference identifying the prior-filed application was unintentionally delayed. A petition to accept an unintentionally delayed claim was required.

The Decision also noted that Petitioner had also not filed a Substitute Amendment with the present petition[2].

The present renewed petition

Petitioner files the present renewed petition, a Request for Continued Examination; an Amendment to the Specification, and a Notice of Appeal, and has also filed a petition under 37 CFR 1.78 in application no. 11/360550[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] Petitioner was reminded that 37 CFR 1.4(c) requires that "[s]ince each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

[2] Petitioner included the desired amendment on page 5 of 6 of the Remarks, and on pages 1-2 of the renewed petition; however, as noted supra, a separate amendment to the specification was required.

[3] A Decision on the petition filed in application no. 11/360,550 is being mailed on even date herewith.

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

The petition does not comply with item **(1)**

A review of the Amendment to the Specification filed with the present petition reveals that the specification improperly attempts to make a benefit claim from a provisional application to a nonprovisional application. The first line of the Amendment states as follows: "Application Serial No. 60/740,593 filed November 29, 2005, entitle... and is a continuation-in-part of United States Patent Application No. 11/360,550...." 35 U.S.C. 111(b)(7) states that "[a] provisional application shall not be entitled to the right of priority of any other application under \section 119 or 365(a) of this title or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c) of this title."

Also, in view of the Decision on petition in application 11/360,550, continuity does not exist between prior application no. 11/360,550, filed February 23, 2006, and application no. 10/285,359, filed October 31, 2002, which claims priority to provisional application no. 60/335,343, filed November 2, 2001. Moreover, common inventorship does not exist between provisional application no. 60/335,343 and application no. 11/360,550, or application no. 10/285,359.

Finally, a review of the Amendment filed with the petition reveals that the claim to 11/553,323 is improper. The clause "...and is a continuation-in-part of ...11/553,323..." indicates that 10/006,014 is a CIP of 11/553,323. However, the earlier filed application, 10/006,014, cannot be a child application of 11/553,323 since it precedes 11/553,323.

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

By mail: Mail Stop PETITIONS
Director 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 Attorney Derek Woods at (571) 272-3232.

Christopher Bottorff
Attorney
Office of Petitions

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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of	:
Palu et al.	:
Application No. 11/562224	: DECISION ON PETITION
Filing or 371(c) Date: 11/21/2006	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10209.1050	:

This is a decision on the Petition Under 37 CFR 1.78, Petition to Accept Unintentionally Delayed Benefit Claim, filed April 12, 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 applications set forth in the concurrently filed amendment. The petition is properly treated as a renewed petition under 37 CFR §§ 1.78(a)(3) and (a)(6).

The petition is **DISMISSED.**

Background

A Petition to Accept Unintentionally Delayed Benefit Claim in the present application was filed February 23, 2009, wherein Applicant attempted to claim priority of the present application, in relevant part, as a continuation-in-part of application no. 11/360,550, filed February 23, 2006, which is a divisional of application no. 10/285,359, filed October 31, 2002, which claims priority to provisional application no. 60/333,343, filed November 2, 2001.

The petition was dismissed in a Decision mailed March 9, 2009. The Decision informed petitioner that a review of Office records revealed that continuity does not exist between prior application no. 11/360,550, filed February 23, 2006, and application no. 10/285,359, filed October 31, 2002, which claims priority to provisional application no. 60/333,343, filed November 2, 2001. A review of the Preliminary Amendment filed in application no. 11/360,550 revealed that the priority claim therein is improper because the Amendment fails to state the relationship (CIP, CON, DIV) of the applications.

Further to this, a review of Office records revealed that continuity does not exist between prior applications application no.10/993,883, filed November 19, 2004, and application no. 10/286,167, filed November 1, 2002, because the benefit claim in 10/993,883 was made to application no. 10/286,187.

The July 21, 2010 petition

Petitioner filed a renewed petition on July 21, 2010, and included a Supplemental Amendment for Application Serial Number 11/360,550, in an apparent attempt to correct the priority claim therein to state that Application Serial Number 11/360,550 is a divisional of United States Patent Serial No. 10/285,359 dated October 31, 2002.... Petitioner also included a copy of a Preliminary Amendment filed in Application Serial Number 10/993883, where the benefit claim to application no. 10/286,167, filed November 1, 2002, was timely corrected. Office records correctly reflect the benefit claim in 10/993,883 was made to application no. 10/286,167

The renewed petition was dismissed in a decision mailed September 28, 2010. The decision dismissing the petition informed petitioner that the Supplemental Amendment for Application Serial Number 11/360,550, filed with the renewed petition in the present application, to correct the benefit claim in application no. 11/360,550, to state that Application Serial Number 11/360,550 is a divisional of United States Patent Serial No. 10/285,359 dated October 31, 2002, was insufficient to perfect the benefit claim[1]. 37 CFR 1.78(a)(2)(ii) requires the reference to have been submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the reference is presented after the time period provided by paragraph (a)(2)(ii) of 37 CFR 1.78, the claim may be accepted if the reference identifying the prior-filed application was unintentionally delayed. A petition to accept an unintentionally delayed claim was required in application 11/360,550[2].

Accordingly, the amendment filed with the petition was unacceptable as drafted because every intermediate application does not make a reference to the first (earliest) application and/or every application after the first application and before such intermediate application, and the petition was properly dismissed.

The present renewed petition

Petitioner files the present renewed petition and amendment. A review of the amendment filed with the petition reveals that the amendment does not make a proper priority claim to provisional application no. 60/740593. As to provisional application no. 60/740593, the amendment to the first line of the specification following the title states only that "Application Serial No. 60/740,593 filed November 29, 2005, entitled "Antiviral Morinda Citrifolia L. Based Formulations and Methods for Administration." A review of the specification filed with the application papers on November 21, 2006 reveals a proper priority claim to provisional application no. 60/740,593 filed November 29, 2005.

A further review of the amendment filed with the petition reveals that the amendment is again unacceptable as drafted because every intermediate application does not make a reference to the first

[1] Petitioner is also reminded that 37 CFR 1.4(c) requires that "[s]ince each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

[2] A review of application no. 11/360550 reveals that a petition to accept an unintentionally delayed claim for the benefit of priority to prior-filed application 10/285359, and to provisional application no. 60/335343 was dismissed in a decision mailed September 28, 2010. As of the mail date of this decision, no request for reconsideration of petition has been filed in application no. 11/360550.

(earliest) application and/or every application after the first application and before such intermediate application. Specifically, Office records do not reflect that application no. 11/360,550 is a divisional of application no. 11/285,389, filed October 31, 2002. As noted supra, a petition for acceptance of a claim for late priority, filed in application no. 11/360,550, was dismissed in a decision mailed September 28, 2010.

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 MPEP provides:

> 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).

Here, the amendment filed with the present (second) renewed petition does not make a proper priority claim to provisional application no. 60/740593. Moreover, Office records do not reflect that application no. 11/360,550 is a divisional of application no. 11/285,389, filed October 31, 2002.

Accordingly, the amendment remains unacceptable as drafted because every intermediate application does not make a reference to the first (earliest) application and/or every application after the first application and before such intermediate application.

Before the petition can be granted, the priority chain in the prior-filed application must be perfected, and a renewed petition and substitute amendment (complying with 35 U.S.C. 120; 37 CFR 1.121 and 37 CFR 1.76(b)(5)), are required.

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

By mail: Mail Stop PETITIONS
Director 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 Attorney Derek Woods at (571) 272-3232.

Christopher Bottorff
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

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of	:
Palu et al.	:
Application No. 11/562224	: DECISION ON PETITION
Filing or 371(c) Date: 11/21/2006	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10209.1050	:

This is a decision on the Petition Under 37 CFR 1.78, Petition to Accept Unintentionally Delayed Benefit Claim, filed September 27, 2011, and supplemented September 28, 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 applications set forth in the concurrently filed amendment. The petition is properly treated as a renewed petition under 37 CFR §§ 1.78(a)(3) and (a)(6).

The petition is GRANTED.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is

entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. 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 1655 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed applications.

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
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/562,224	11/21/2006	1655	1130	10209.1050	20	3

CONFIRMATION NO. 8835

CORRECTED FILING RECEIPT

21999
KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

OC000000050099112

Date Mailed: 09/29/2011

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

Applicant(s)

Afa Kehaati Palu, American Fork, UT;
Chen Su, West Jordan, UT;
Bing-Nan Zhou, Sandy, UT;
Brett West, Orem, UT;
Claude Jarake Jensen, Cedar Hills, UT;
Stephen Story, Alpine, UT;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/740,593 11/29/2005
and is a CIP of 10/993,883 11/19/2004 PAT 7,186,422
which is a DIV of 10/286,167 11/01/2002 PAT 6,855,345
which claims benefit of 60/335,313 11/02/2001
This application 11/562,224
is a CIP of 10/006,014 12/04/2001 ABN
which claims benefit of 60/251,416 12/05/2000

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

If Required, Foreign Filing License Granted: 01/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/562,224**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Antiviral Morinda Citrifolia L. Based Formulations and Methods of Administration

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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100 PINE STREET
P.O. BOX 1166
HARRISBURG PA 17108-1166

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of :
Deantoni, et al. :
Application No. 11/562,323 :
Filed: November 21, 2006 :
Attorney Docket No. 024.0259 (05-0351) :

ON PETITION

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

The petition is GRANTED.

The application became abandoned April 16, 2010 for failure to timely submit a proper reply to the final Office action mailed January 15, 2010. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time pursuant to 37 CFR 1.136(a) was filed. This decision precedes Notice of Abandonment.

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

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

This application is being referred to Technology Center AU 1715 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No.

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

MAILED
APR 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Rhoads et al.	:	
Application No. 11/562,357	:	ON APPLICATION FOR
Filed: November 21, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 098888-1949	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)" filed March 11, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand fourteen (1014) days, not seven hundred eighty-nine (789) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction 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

---

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Kan Cheng
5942 Smith Ave.
Newark CA 94560

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Kan K. Cheng et al.	:	
Application No. 11/562,470	:	DECISION ON PETITION
Filed: November 22, 2006	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed November 23, 2010, which set a shortened statutory period for reply of three (3) months. Three months extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 24, 2011. A Notice of Abandonment was mailed on June 8, 2011.

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

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

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

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

This application is being referred to Technology Center AU 1725 for appropriate action by the Examiner in the normal course of business on the reply received June 21, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Douglas L. Weller
431 Magnolia Lane
Santa Clara, CA 95051

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: All changes are approved. Claims 14 and 15 are corrected as apparatus claims and claim 15 should depend on claim 14.

Miranda Le

SPE

3735

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/03/12

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction for Appl. No.: 11562489 Patent No.: 8043223

CofC mailroom date: 01/17/12

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.

PAGE 1/2 * RCVD AT 2/7/2012 5:05:43 PM [Eastern Standard Time] * SVR:W-PTOFAX-003/16 * DNIS:2733421 * CSID:7033087764 * DURATION (mm-ss):01-28

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: All changes are approved. Claims 14 and 15 are corrected as apparatus claims and claim 15 should depend on claim 14.

Miranda Le

SPE

3735

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/562,586	11/22/2006	Yong-Seok YANG	21C-0389	9454

7590 01/18/2011
CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER
ZHOU, HONG

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
01/18/2011	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Michael Allan Martin DAVIES	:	
Application No. 11/562,630	:	ON PETITION
Filed: November 22, 2006	:	
Attorney Docket No. 30019-004001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 2010.

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

With respect to item (1): In the petition filed November 24, 2010, petitioner indicates a continuation was filed, however, a review of Office record shows no continuation was filed. In this regard, any future petition should include the continuation application number and filing date. Since the proper reply was not received, the petition cannot be accepted as complying with 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on November 24, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-4189.

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

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

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

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

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

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

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

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MAY 03 2011

OFFICE OF PETITIONS

OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

In re Application of	:	
DAVIES	:	
Application No. 11/562,630	:	DECISION ON PETITION
Filed: November 22, 2006	:	
Docket No. 30019-004001	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 12/953,696, filed November 24, 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

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

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Chi Young Ahn et al.	:	
Application No. 11/562,672	:	NOTICE
Filed: November 22, 2006	:	
Attorney Docket No. **299684US8**	:	

This is a notice regarding your request filed September 24, 2008, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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BROOKS KUSHMAN, PC
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Belabbes MERZOUGUI, et *al.*	:	
Application No. 11/562,712	:	DECISION ON PETITION
Filed: November 22, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **GP-307668**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; 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 1795 for appropriate action by the Examiner in the normal course of business on the reply received August 17, 2010

Thurman K. Page
Petitions Examiner
Office of Petitions

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Garnette Roy Sutherland et al.	:	
Application No. 11/562,768	:	DECISION ON PETITION
Filed: November 22, 2006	:	
Attorney Docket No. **UNTI:002USC2/ 10613655**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 24, 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 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3664 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

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DEC 13 2010
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of :
Begelman et al. :
Application No. 11/562,771 :
Filed: November 22, 2006 :
Attorney Dkt. No. 071752-0104 :
For: METHOD AND SYSTEM FOR :
AUTOMATIC ANALYSIS OF BLOOD :
VESSEL STRUCTURES AND :
PATHOLOGIES IN SUPPORT OF A :
TRIPLE RULE-OUT PROCEDURE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed October 22, 2010. Applicants request that the determination of patent term adjustment be corrected from eight hundred eighteen (818) days to one thousand one hundred forty-eight (1,148) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

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

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

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

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

---

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

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

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

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

Anthony Knight
Director
Office of Petitions

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Terry Rajasenan	:	TO WITHDRAW
Application No. 11/562,857	:	FROM RECORD
Filed: November 22, 2006	:	
Attorney Docket No. 23571-12231	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed July 21, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

AUG 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Terry Rajasenan	:	
Application No. 11/562,857	:	DECISION ON PETITION
Filed: November 22, 2006	:	TO WITHDRAW
Attorney Docket No. 23571-12231	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 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. 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 Stuart P. Meyer 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 August 9, 2010 that requires a reply from the applicant.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Processproxy Corporation**
Attn: Myron Asher
800 Red Brook Blvd.
Suite 300
Owings Mills, MD 21117

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/562,857	11/22/2006	Terry Rajasenan	23571-12231

CONFIRMATION NO. 9918

POWER OF ATTORNEY NOTICE

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

OC000000043203868

Date Mailed: 08/25/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/10/2010.

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

/tsjohnson/

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

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

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DEC 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Begelman, et al.	:	
Application No. 11/562,897	:	ON REQUEST FOR
Filed: November 22, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 071752-0106	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed October 19, 2010. Applicants believe that they should be accorded an additional PTA of 273 days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

In view thereof, the correct determination of PTA prior to issuance is **eight hundred seventy-five (875) days**.

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

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

Anthony Knight
Director
Office of Petitions

---

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

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Broncus Technologies, Inc. c/o
Levine Bagade Han LLP
2400 Geng Road
Suite 120
Palo Alto CA 94303

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DEC 28 2010
OFFICE OF PETITIONS

In re Application of	:	
Edmund J. Roschak, et al.	:	
Application No. 11/562,947	:	DECISION ON PETITION
Filed: November 22, 2006	:	
Attorney Docket No. BRONNE00405	:	

This is a decision on the petition, filed October 18, 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**.

This application was held abandoned for failure to timely respond to the Restriction Office action of April 16, 2010 which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before May 16, 2010, or, on or before October 18, 2010, with a five (5)-month extension of time. A Notice of Abandonment was mailed October 12, 2010.

Petitioner states that a timely reply was filed on October 18, 2010, which included the following papers: an amendment/election, and a request for a five (5) month extension of time.

The file record includes the originally submitted papers.

Accordingly, the holding of abandonment for failure to timely file a reply to the Restriction Office action of April 16, 2010, is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 3777 for appropriate action in the normal course of business on the amendment/election filed on October 18, 2010.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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BRONCUS TECHNOLOGIES, INC. C/O
LEVINE BAGADE HAN LLP
2400 GENG ROAD
SUITE 120
PALO ALTO CA 94303

In re Application of	:
Roschak et al.	:
Application No. 11/562,947	: DECISION ON PETITION
Filed: November 22, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BRONNE00405	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 28, 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 **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.

Further, 37 CFR 1.78(a)(2)(ii) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(2)(ii), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(2)(ii) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Additionally, it is noted that the filing date of Application No. 10/080,344 is February 21, 2002 and not February 22, 2002 as petitioner has submitted in the Specification filed July 28, 2011.

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 3777 for appropriate action on the Amendment filed July 28, 2011, 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
11/562,947	11/22/2006	3777	2000	BRONNE00405	76	3

CONFIRMATION NO. 1113

CORRECTED FILING RECEIPT

OC000000049727286

74059
Broncus Technologies, Inc. c/o
Levine Bagade Han LLP
2400 Geng Road
Suite 120
Palo Alto, CA 94303

Date Mailed: 09/08/2011

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

Applicant(s)

Edmund J. ROSCHAK, Mission Viejo, CA;
Thomas M. Keast, Sunnyvale, CA;
Patrick John Massetti, Mountain View, CA;

Power of Attorney: The patent practitioners associated with Customer Number 40518

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/739,153 11/22/2005
and is a CIP of 10/080,344 02/21/2002 PAT 7,422,563

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

If Required, Foreign Filing License Granted: 01/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/562,947**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

DEVICES FOR CREATING PASSAGES AND SENSING FOR BLOOD VESSELS

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/10

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction for Appl. No.: 11562961 Patent No.: 7693419

CofC mailroom date: 12/03/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

[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.

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/ AU 2613 SPE

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 21, 2010

TO SPE OF : ART UNIT 3618
SUBJECT : Request for Certificate of Correction for Appl. No/11/563003 -7802644

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 3618 **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

DEAN D. SMALL
THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS MO 63105

MAILED
OCT 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Saad Ahmed Sirohey et al.	:	
Application No. 11/563,025	:	DECISION ON PETITION
Filed: November 23, 2006	:	
Attorney Docket No. 220375 (553-1463)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 10, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 11, 2011. A Notice of Abandonment was mailed on October 19, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,860, (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received October 7, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/563,417	11/27/2006	Hiromasa Fujimoto	299862US2S	1928

22850 7590 02/03/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LIU, BENJAMIN T

ART UNIT	PAPER NUMBER
2893	

NOTIFICATION DATE	DELIVERY MODE
02/03/2011	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):

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 AND MAIER & NEUSTAT, L.L.P
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of
FUJIMOTO
Application no. 11/563, 417
Filed: 11/27/2006
Attorney Docket No. 299862US2S

: NOTICE OF WITHDRAWAL
: FROM ISSUE
: UNDER 37 C.F.R. § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue due to unpatentability of one or more claims pursuant to 37 C.F.R. § 1.313.

The U.S. Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Tom Thomas (571) 272-1664

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John Cabeca, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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	11563549
Filing Date	27-Nov-2006
First Named Inventor	Ramsay Hoguet
Art Unit	2128
Examiner Name	AKASH SAXENA
Attorney Docket Number	21443-002001
Title	VISUAL BOOKMARKS FOR HOME AND LANDSCAPE DESIGN

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

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

10.40(c)(1)(vi)

Certifications

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

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

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

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

Name	DesignIn Corporation Ramsay Hoguet
Address	89 Front Street
City	Marblehead
State	MA
Postal Code	01945
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Paul Pysher/
Name	Paul A. Pysher
Registration Number	40780

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 8,2011

In re Application of :

Ramsay Hoguet

Application No : 11563549

Filed: 27-Nov-2006

Attorney Docket No : 21443-002001

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed November 8,2011

The request is **APPROVED**

The request was signed by Paul A. Pysher (registration no. 40780) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

Name	DesignIn Corporation
Name2	Ramsay Hoguet
Address 1	89 Front Street
Address 2	
City	Marblehead
State	MA
Postal Code	01945
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

HAMMOND

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/21/11

TO SPE OF : ART UNIT 3695

SUBJECT : Request for Certificate of Correction for Appl. No.: 11563557 Patent No.: 7890355

CofC mailroom date: 03/15/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[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: Charles R. [signature] SPE AU 3695

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	11563564
Filing Date	27-Nov-2006
First Named Inventor	Ramsay Hoguet
Art Unit	2128
Examiner Name	AKASH SAXENA
Attorney Docket Number	21443-003001
Title	CONVERTING WEB CONTENT INTO TWO-DIMENSIONAL CAD DRAWINGS AND THREE-DIMENSIONAL CAD MODELS

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

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

10.40(c)(1)(vi)

Certifications

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

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

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

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

Name	DesignIn Corporation Ramsay Hoguet
Address	89 Front Street
City	Marblehead
State	MA
Postal Code	01945
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Paul Pysher/
Name	Paul A. Pysher
Registration Number	40780

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 8,2011

In re Application of :

Ramsay Hoguet

Application No : 11563564

Filed: 27-Nov-2006

Attorney Docket No : 21443-003001

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed November 8,2011

The request is **APPROVED**

The request was signed by Paul A. Pysher (registration no. 40780) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

Name	DesignIn Corporation
Name2	Ramsay Hoguet
Address 1	89 Front Street
Address 2	
City	Marblehead
State	MA
Postal Code	01945
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	11563569
Filing Date	27-Nov-2006
First Named Inventor	Ramsay Hoguet
Art Unit	2128
Examiner Name	AKASH SAXENA
Attorney Docket Number	21443-0004001
Title	CONVERTING WEB CONTENT INTO TEXTURE MAPPING OBJECTS

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

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

10.40(c)(1)(vi)

Certifications

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

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

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

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

Name	DesignIn Corporation Ramsay Hoguet
Address	89 Front Street
City	Marblehead
State	MA
Postal Code	01945
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Paul Pysher/
Name	Paul A. Pysher
Registration Number	40780

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 8,2011

In re Application of :

Ramsay Hoguet

Application No : 11563569

Filed: 27-Nov-2006

Attorney Docket No : 21443-0004001

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed November 8,2011

The request is **APPROVED**

The request was signed by Paul A. Pysher (registration no. 40780) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

Name	DesignIn Corporation
Name2	Ramsay Hoguet
Address 1	89 Front Street
Address 2	
City	Marblehead
State	MA
Postal Code	01945
Country	US

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 8,2011

In re Application of :

Ramsay Hoguet

Application No : 11563604

Filed: 27-Nov-2006

Attorney Docket No : 21443-0005001

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed November 8,2011

The request is **APPROVED**

The request was signed by Paul A. Pysher (registration no. 40780) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

Name	DesignIn Corporation
Name2	Ramsay Hoguet
Address 1	89 Front Street
Address 2	
City	Marblehead
State	MA
Postal Code	01945
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	11563604
Filing Date	27-Nov-2006
First Named Inventor	Ramsay Hoguet
Art Unit	2128
Examiner Name	SUZANNE LO
Attorney Docket Number	21443-0005001
Title	Joining and Disjoining Individual Rooms in a Floor Plan

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

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

10.40(c)(1)(vi)

Certifications

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

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

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

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

Name	DesignIn Corporation Ramsay Hoguet
Address	89 Front Street
City	Marblehead
State	MA
Postal Code	01945
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Paul Pysher/
Name	Paul A. Pysher
Registration Number	40780

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 8,2011

In re Application of :

Ramsay Hoguet

Application No : 11563607

Filed: 27-Nov-2006

Attorney Docket No : 21443-0007001

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed November 8,2011

The request is **APPROVED**

The request was signed by Paul A. Pysher (registration no. 40780) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

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Name2	Ramsay Hoguet
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Address 2	
City	Marblehead
State	MA
Postal Code	01945
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	11563607
Filing Date	27-Nov-2006
First Named Inventor	Ramsay Hoguet
Art Unit	2128
Examiner Name	SAIF ALHIJA
Attorney Docket Number	21443-0007001
Title	Searching and Matching Related objects, Drawings and Models For Home and Landscape Design

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

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

10.40(c)(1)(vi)

Certifications

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

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

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

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

Name	DesignIn Corporation Ramsay Hoguet
Address	89 Front Street
City	Marblehead
State	MA
Postal Code	01945
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Paul Pysher/
Name	Paul A. Pysher
Registration Number	40780

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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of	:	
Paul Hua, et al.	:	
Application No. 11/563,608	:	DECISION GRANTING PETITION
Filed: November 27, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 20660US02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 5, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 31, 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 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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In re Application of	:	
Hua et al.	:	
Application No. 11/563608	:	ON APPLICATION FOR
Filing or 371(c) Date: 11/27/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
20660US02	:	

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 August 31, 2010. Applicant requests that the Patent Term Adjustment be changed to reflect 750 days, not 319 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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

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

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

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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Patent No. 7,902,129 :
Issue Date: 8 March, 2011 :
Application No. 11/563,616 : DECISION ON PETITION
Filed: 27 November, 2006 :
Attorney Docket No. 15717.3.2 :

This is a decision on the petition filed on 25 February, 2011, requesting pursuant to 37 C.F.R §1.182 that the acceptance of the terminal disclaimer filed on 16 November, 2010, as to Patent No. 7,166,561, be withdrawn

NOTE:

On 16 November, 2010, Petitioner filed into the instant application a terminal disclaimer as to Patent No. 7,166,561.

On 19 January, 2011, the Office mailed the Notice of Allowance in the instant application.

On 28 January, 2011, Petitioner paid the fees due (Issue and Publication Fees) in the instant application, and immediately thereafter, the instant application was scheduled for issue on 8 March, 2011.

Nonetheless, Petitioner waited until 25 February, 2011, to file the instant petition, having failed to timely seek relief prior to payment of the issue fee or to seek withdrawal from issue following the payment of the Issue Fee.

Congress has provided that after allowance and upon payment of the Issue Fee, "the patent shall issue."[1]

[1] Congress has provided:

35 U.S.C. 151 Issue of patent.

If 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. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

The instant application issued on 8 March, 2011.

Nonetheless, Petitioner has requested delay of issuance to overcome his own delay in addressing a matter he appears to have found of import.

The substantive change now sought by Petitioner is at least untimely and so inappropriate.

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

It is noted that, as of this writing, the Examiner(s) in charge of this application has not concurred with the request.

The guidance in the Commentary at MPP §1490 provides in pertinent part:

***

VII. WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

(Amended July 24, 1965, Public Law 89-83, sec. 4, 79 Stat. 260; Jan. 2, 1975, Public Law 93-601, sec. 3, 88 Stat. 1956; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)); Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

> Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)
>
> ***

Moreover, Petitioner's discussion makes clears that Petitioner expressly determined as to prosecution strategy to submit the terminal disclaimer notwithstanding Petitioner's own beliefs that the disclaimer was unnecessary.[2]

At this writing, withdrawal of the 16 November, 2010, TD appears inappropriate.

Accordingly, the petition is **dismissed**.

This application is released to the IFW Files Repository.

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

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

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[2] Petition, pages 1 and 2.

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

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

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

In re Patent of Covell et al. :	DECISION ON REQUEST FOR
Patent No. 7,991,770 :	RECONSIDERATION OF
Issued: August 2, 2011 :	PATENT TERM ADJUSTMENT &
Application No. 11/563,665 :	NOTICE OF INTENT TO
Filed: November 27, 2006 :	ISSUE CERTIFICATE OF
Atty Docket No. 16113-0070001 :	CORRECTION

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed October 3, 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 four hundred seventy-five (475) days.

The petition is **GRANTED TO THE EXTENT INDICATED HEREIN.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **three hundred thirty-seven (337)** days.

On August 2, 2011, the above-identified application matured into U.S. Patent No. 7,991,770, with a revised patent term adjustment of 413 days. On Monday, October 3, 2011, patentees 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 475 days.

Pursuant to their duty of good faith and candor to the Office, patentees disclose the Office failed to enter a 78 day period of reduction, pursuant to 37 CFR 1.704(c)(8), for an Information Disclosure Statement filed on May 18, 2010. After applicants filed a proper reply on March 1, 2010 to a final Office action, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on May 18, 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 May 18, 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 patent term adjustment should have been reduced by 78 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, March 2, 2010, and ending on the date that the IDS was filed, May 18, 2010. Accordingly, a period of reduction of 78 days will be entered.

Patentees dispute the period of reduction of 2 days entered for applicant delay, pursuant to 1.704(b), in connection with the filing of the issue fee on Monday, June 20, 2011 in response to the Notice of Allowance and Fee(s) Due, mailed March 18, 2011. This reduction has been reconsidered, and it is determined that entry of a reduction for this reply timely filed is not warranted. Accordingly, the period of reduction of 2 days is being removed.

Patentees argue that the Director erred in the calculation of patent term adjustment by subtracting from the period of B Delay a period of time that was not "consumed by continued examination of the application." A Request for Continued Examination (RCE) was filed on March 1, 2010. On March 18, 2011, the Office mailed a Notice of Allowance. Patentees argue no continued examination took place during the 138 day period from March 18, 2011 (the mailing date of the Notice of Allowance) until August 2, 2011 (the date the patent issued). Thus, patentees argue 138 days should have been added to the 93 days accorded by the Director for the B Delay period (beginning November 28, 2009 and ending on February 28, 2010, the day before the first RCE was filed).

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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.

Patentees conclude that the correct patent term adjustment is 475 days, which is 474 days of "A delay" + 231 days of "B delay" minus 230 days of Applicant delay. The Office agrees that Applicant delay is 230 days. However, the Office does not concur that the B delay period is 231 days.

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.

Patentees' arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 93 days based on the application having been filed under 35 U.S.C. 111(a) on November 27, 2006 and the patent not having issued as of the day after the three year date, November 28, 2009, and a request for continued examination being filed on March 1, 2010. In other words, the 138-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)[2]. 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

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[2] 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.

date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term.

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of

patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever

the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[3]. 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

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[3] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the 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[4] 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

[4] 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.

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

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

In this instance, a request for continued examination was filed on March 1, 2010, and the patent issued by virtue of that request on August 2, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on March 18, 2011 and ending on August 2, 2011 is not included in calculating Office delay.

In light thereof, the correct patent term adjustment is 337 days, which is 474 days of delay under 35 U.S.C. 154(b)(1)(A) plus 93 days of delay under 35 U.S.C. 154(b)(1)(B) reduced by 230 days of Applicant delay.

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

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by three hundred thirty-seven (337)** 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: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,991,770 B2

DATED : **August 2, 2011** **DRAFT**

INVENTOR(S) : Covell et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 413 days

Delete the phrase "by 413 days" and insert – by 337 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SABIC INNOVATIVE PLASTICS – IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of	:	
KHATUA, et al	:	
Application No. 11/563,723	:	DECISION ON PETITION
Filed: November 28, 2006	:	
Attorney Docket No. 186483-4-US-CIP	:	

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

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 17, 2010, by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 18, 2010. *See* MPEP 1214.06. A Notice of Abandonment was mailed November 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) (3).

With respect to item (3): The instant petition fails to contain the required statement of unintentional delay. 37 CFR 1.137(b) states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in

filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsection (II) (C) and (D).]

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.

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

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

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

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

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

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

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

cc: DAVID E. RODRIGUES
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No : 7,879,894 B2
Ser. No. : 11/563,920
Inventor(s) : Zanella
Issued : February 1, 2011

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 in this matter is hereby denied.

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

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

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

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

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

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

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

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

A certificate of correction will 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

Medtronic
IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

ej

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 28 2011
OFFICE OF PETITIONS

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING, MD 20910

In re Application of
Philip S. Muhlfelder
Application No. 11/563,921
Filed: November 28, 2006
Attorney Docket No.: 5876

ON PETITION

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

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

The 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).

This petition lacks item 1 above. 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. Accordingly, the petition cannot be granted at this time. Petitioner must provide the required reply in the form of the $755 issue fee and the $300 publication fee.

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

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

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

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

By internet: EFS-Web[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

cc: PHILIP S. MUHLFELDER
4125 POLO PARK DRIVE
WILLOUGHBY, OH 44094

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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10 POST OFFICE ROAD - SUITE 100
SILVER SPRING MD 20910

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of
Philip S. Muhlfelder
Application No. 11/563,921
Filed: November 28, 2006
Attorney Docket No.: 5876

ON PETITION

This is a decision in response to the communication transmitting the requisite issue and publication fees, filed May 18, 2011, which is being treated as a the renewed petition 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 pay the issue and publication fees on or before October 12, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 13, 2007. A Notice of Abandonment was subsequently mailed on November 6, 2007. A petition under the provisions of 37 CFR 1.137(b) was filed on March 10, 2011; however, the petition was dismissed in a decision mailed April 28, 2011. On May 18, 2011, the present petition was filed.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition is found to satisfy the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

It is noted that petitioner has filed a change of correspondence address; however, petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). 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.

The application is being referred to the Office of Data Management to be processed into a patent.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PHILLIP S. MUHLFELDER
4125 POLO PARK DRIVE
WILLOUGHBY, OH 44094-7969

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DUANE MORRIS LLP (TSMC)
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Chen-Hua YU, et *al.*	:	
Application No. 11/563,973	:	DECISION GRANTING PETITION
Filed: November 28, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2006.0126/1085.425**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 23, 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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ALEXANDRIA, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Patent No. 7,664,381 :
Issue Date: February 16, 2010 :
Application No. 11/564,008 : DECISION ON PETITION
Filed: November 28, 2006 :
Attorney Docket No. 9319S-001966 :

This is a decision on the petition under 37 CFR 1.182, filed August 6, 2010, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management at (703) 756-1555.

A copy of this decision is being sent to Office of Data Management for issuance of duplicate Letters Patent.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell (Fax No. (571) 270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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LORD CORPORATION
PATENT & LEGAL SERVICES
111 LORD DRIVE
P.O. Box 8012
CARY NC 27512-8012

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Dennis McGuire	:	
Application No. 11/564,017	:	DECISION ON PETITION
Filed: November 28, 2006	:	
Attorney Docket No. IR-3462 (MRW)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 23, 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 date of abandonment was October 24, 2010. A Notice of Abandonment was mailed on April 13, 2011.

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

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

This application is being referred to Technology Center AU 3657 for appropriate action by the Examiner in the normal course of business on the reply received July 6, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Conley Rose P.C
P.O.Box 3267
Houston TX 77253

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,777,644 :
Issue Date: August 17, 2010 :
Application No. 11/564,024 : DECISION ON PETITION
Filed: November 28, 2006 :
Attorney Docket No. 2841-00801 :

This is a decision on the Request For Certificate Of Correction Under 37 CFR §3.81(b), filed July 20, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct spelling of assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

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

"InatelliServ, LLC"

to:

--IntelliServ, LLC--

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

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

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

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,777,644.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Dias et al.	:	DECISION
Application No. 11/564,061	:	ON APPLICATION FOR
Filed: November 28, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 070156-0214	:	
Title: RICH MEDIA EVENT	:	
PRODUCTION SYSTEM AND METHOD	:	
INCLUDING THE CAPTURING,	:	
INDEXING, AND SYNCHRONIZING	:	
OF RGB-BASED GRAPHIC CONTENT	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)," filed January 7, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred and seventy-five (775) days, not five hundred and ninety-six (596) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

---

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

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

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date :July 12, 2011

Patent No. :7913156
Inventor(s) :James Dias, et al.
Issued :March 22, 2011
Title :RICH MEDIA EVENT PRODUCTION SYSTEM AND METHOD
:INCLUDING THE CAPTURING, INDEXING, AND SYNCRHONIZING
:OF RGB-BASED GRAPHIC CONTENT
Doc/.File No. :

Re: Request for Certificate of Correction

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

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error concerning the inventor's names. Since this information is printed solely in accordance with the typewritten information provided on the Declaration, Oath or ADS, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct information be provided accordingly, no correction is in order here under the provisions of Rules 1.322 or 1.323, unless a petition is granted.

However, a petition under 37 CFR 1.182 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 PETITIONS
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

If the petition under 37 CFR 1.182 is filed and granted the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (571) 272-9005.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

Verex Plaza
150 East Gilman Street
Madison, Wisconsin 43701-1481

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Carmen Patti Law Group, LLC
One N. LaSalle Street
44th Floor
Chicago, IL 60602

Mail Date: 08/04/2010

Applicant	: Pierre Peloso	: DECISION ON REQUEST FOR
Patent Number	: 7653307	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/564,125	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **606** 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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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Victor B. Kley	:	
Application No. 11/564,133	:	ON PETITION
Filed: November 28, 2006	:	
Attorney Docket No. 015772-002910US	:	

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

The petition is **DISMISSED** as Moot.

The above identified application is not in an abandoned status. The issue fee of $755 received on February 2, 2011 was timely paid.

The $810 petition fee will be credited back to petitioner's deposit account.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Kenneth L. Levy	:	
Application No. 11/564,225	:	ON APPLICATION FOR
Filed: 11/28/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
098888-1950	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)," filed on September 8, 2011. Applicant asserts that the correct patent term adjustment is 1142 days rather than 821 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicant asserts entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

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

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

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

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

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

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

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

---

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/13/12

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 11564251 Patent No.: 8054585

CofC mailroom date: 03/01/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes be made in the Title?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

Comments:

/Wayne Young/	2627
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.
11/564,418	11/29/2006	Kenji Kawai	298961US0	2512

22850 7590 11/03/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
MCCULLEY, MEGAN CASSANDRA

ART UNIT	PAPER NUMBER
1767	

NOTIFICATION DATE	DELIVERY MODE
11/03/2010	ELECTRONIC

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

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

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

In re Application of Kawai
Serial No.: 11/564,418
Filed: November 29, 2006

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: RESIN COMPOSITION FOR INSULATING LAYER FOR MULTILAYERED PRINTED BOARD

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed March 4, 2010 to correct inventorship under 37 CFR 1.48(a) by adding the name of Shigeo Nakamura to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

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

Mark Eashoo
Supervisory Patent Examiner
Art Unit 1767
Technology Center 1700

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

MAILED
FEB 08 2012
OFFICE OF PETITIONS

In re Application of :
Attanasio et al. :
Application No. 11/564,429 :
Filed: November 29, 2006 :
Attorney Docket No. FR920050060US1 :
For: METHOD, SYSTEM AND COMPUTER PROGRAM FOR DYNAMIC RESOURCES ALLOCATION

ON PETITION

This is a decision on the petition, filed January 6, 2012, 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 March 3, 2011 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 June 4, 2011. A Notice of Abandonment was mailed on December 15, 2011.

Applicants have submitted an amendment in reply to the March 3, 2011 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 3, 2011 non-final Office action, and the $1,860.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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 2195 for consideration of the amendment filed on January 6, 2012.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,794,727	:	
Issue Date: September 14, 2010	:	
Application No. 11/564,433	:	NOTICE
Filed: November 29, 2006	:	
Attorney Docket No. 02940426AA	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 3, 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

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.
11/564,470	11/29/2006	Robert P. Morris	1430/US	2586

49277 7590 09/20/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
WASEL, MOHAMED A

ART UNIT	PAPER NUMBER
2454	

MAIL DATE	DELIVERY MODE
09/20/2011	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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Scenera Research, LLC
Jenkins, Wilson, Taylor & Hunt, P.A.
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
Morris
Appl. No.: 11/564,470
Filed: November 29, 2006
For: **METHOD AND SYSTEM FOR PROVIDING SUPPLEMENTAL INFORMATION IN A PRESENCE CLIENT-BASED SERVICE MESSAGE**

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 23, 2011. This is the fourth petition for suspension.

The petition is **GRANTED**.

Pursuant to applicant's request filed on August 23, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from the mailing 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 Christopher Grant whose telephone number is (571) 272-7294.

/Christopher Grant/
Christopher Grant, WQAS
Technology Center 2400

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Alexandria, VA 22313-1450
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BASF CORPORATION
100 CAMPUS DRIVE
FLORHAM PARK NJ 07932

MAILED
NOV 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Hilgendorff et al.	:	
Application No. 11/564494	:	
Filing or 371(c) Date: 11/29/2006	:	
Attorney Docket Number:	:	
5162/ENG0021-00	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181(a), filed October 12, 2011.

This Petition is hereby **granted to the extent indicated**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 1, 2009, wherein no claims were allowed. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed, in relevant part, a Notice of Appeal in response to the Office action on June 18, 2009, and an Appeal Brief on August 3, 2009. The Examiner filed an Answer on September 24, 2009. Applicant then filed a Reply Brief on November 24, 2009. The case was set before the Board of patent Appeals and interferences ("Board"), which affirmed the Examiner in a Decision mailed June 1, 2011.

Applicant filed a Request for Rehearing on August 1, 2011. The Board denied the request in a decision mailed August 12, 2011.

A Notice of Abandonment was mailed September 29, 2011, stating as the reason for the holding of abandonment, the decision of the Board on June 1, 2011, and because the period for seeking court review of the decision had expired.

Applicant's Assertion

Applicant files the instant petition and asserts that the Request for Rehearing filed on August 1, 2011, was timely, and the application was improperly abandoned.

Applicable Law, Rules and MPEP

37 CFR 41.52, Rehearing, states as follows:

(a)(1) Appellant may file a single request for rehearing within two months of the date of the original decision of the Board.

The MPEP 1214.06 further provides:

> The time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a request for rehearing is timely filed before the Board, or as extended by the Director. See MPEP § 1216. When the time for seeking court review (plus 2 weeks to allow for information as to the filing of an appeal or civil action, if any, to reach the examiner) has passed without such review being sought, the examiner must take up the application for consideration. The situations which can arise will involve one or more of the following circumstances:
>
> I. NO CLAIMS STAND ALLOWED
> The proceedings in an application or ex parte reexamination proceeding are terminated as of the date of the expiration of the time for filing court action. The application is no longer considered as pending. It is to be stamped abandoned and sent to abandoned files."

Analysis and conclusion

In this instance, after the Board Decision, mailed June 1, 2011, Applicant was given two months before proceedings in the application terminated. Office records reveal that Applicant timely filed a Request for Rehearing on August 1, 2011. Accord 37 CFR § 1.304(a)(1).

In view of the foregoing, the notice of abandonment mailed September 29, 2011, is hereby withdrawn.

No fee has been charged and none is due.

Current status of the application

As noted supra, the Board denied the request in a decision mailed August 12, 2011. 37 CFR § 1.304(a)(1) states in relevant part, that "[i]f a request for rehearing or reconsideration of the decision is filed within the time period provided under § 41.52(a), § 41.79(a), or § 41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request."

A review of Office records and of the application file reveal that no appeal was filed, nor a civil action commenced within two months after the decision mailed August 12, 2011, denying the

request for rehearing (plus 2 weeks to allow for information as to the filing of an appeal or civil action, if any, to reach the examiner).

In view of the foregoing, the application is ABANDONED.

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
www.uspto.gov

LARSON NEWMAN, LLP
8200 N. MOPAC EXPY.
SUITE 280
AUSTIN TX 78759

MAILED
AUG 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey C. Hailey	:	
Application No. 11/564,496	:	DECISION ON PETITION
Filed: November 29, 2006	:	
Attorney Docket No. DC-11518	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 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 June 27, 2011, as required by the Notice of Allowance and Fee(s) Due mailed March 25, 2011. Accordingly, the date of abandonment of this application is June 28, 2011. A Notice of Abandonment was mailed July 11, 2011.

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

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Timothy G. Newman
5914 W. Courtyard Drive, Suite 200
Austin, Texas 78730

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GENERAL ELECTRIC COMPANY
GE GLOBAL PATENT OPERATION
2 CORPORATE DRIVE, SUITE 648
SHELTON CT 06484

MAILED
DEC 01 2010
OFFICE OF PETITIONS

In re Application of	:	
David Wayne Duckert	:	
Application No. 11/564,505	:	DECISION ON PETITION
Filed: November 29, 2006	:	
Attorney Docket No. 205312	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 30, 2009. A Notice of Abandonment was mailed April 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (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 Technology Center AU 3626 for further appropriate action by the Examiner in the normal course of business on the reply received.

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

MAILED

FEB 28 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sachiko Niwa :
Application No. 11/564,558 :
Filed: November 29, 2006 :
Attorney Docket No. PACKAGED OOLONG-TEA BEVERAGE

This is a decision on the petition, filed February 23, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1789 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

Date : February 24, 2011

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 11/564,558

Applicant(s) : Sachinko Niwa
Application No. : 11/564,558
Filed : November 29, 2006

The above-identified application has been assigned Patent No. 7,897,193 and an issue date of March 1, 2011.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of: March 1, 2011.

> "All reference to Patent No. 7,897,193 to Sachiko Niwa of Japan for PACKAGED OOLONG-TEA BEVERAGE appearing in the Official Gazette of March 1, 2011 should be deleted since no patent was granted."

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd (DMB)
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Bradley Harris
Kimberly Terrell
Kay Pinkney
Betty Powell
Lamont Fletcher

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.

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

MAILED
OCT 21 2010
OFFICE OF PETITIONS

In re Application of :
Nation et al. :
Application No. 11/564655 : ON APPLICATION FOR
Filed: 11/29/2006 : PATENT TERM ADJUSTMENT
Atty Docket No. :
092245-0102 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)," filed on August 12, 2010. Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 636 days to 995 days. Applicants request this correction solely on the basis that the patent will issue on November 23, 2010.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

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

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

---

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

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	11564731
Filing Date	29-Nov-2006
First Named Inventor	Kazuyoshi Sasae
Art Unit	3679
Examiner Name	NAHID AMIRI
Attorney Docket Number	10025553US01
Title	RESIN COMPONENT AND IMAGE FORMING APPARATUS

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	/Abigail Cotton/
Name	Abigail Cotton
Registration Number	52773

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : June 1,2011

In re Application of :

Kazuyoshi Sasae

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11564731

Filed : 29-Nov-2006

Attorney Docket No : 10025553US01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 1,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 3679 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 28, 2010

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11564750 Patent No.: 7700687

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

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

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

Comments: This COC should not be approved. While the changes to the formula of the claims does find support in the specification, the formula was never present in any of the claims during examination and, therefore, were not necessarily searched.

Q Wu — SPE

1796 — 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

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED
JUL 11 2011
OFFICE OF PETITIONS

In re Application of
Hideyuki Kasahara, et al.
Application No. 11/564,763
Filed: November 29, 2006
Attorney Docket No. P/3541-109

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed July 8, 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 April 22, 2011, with the issue fee being due on or before July 11, 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.

The $130 petition fee submitted herewith will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to Terri Johnson at (571) 272-2991.

The matter is being referred to Technology Center AU 3734 for appropriate processing of the RCE filed July 8, 2011, and for consideration of the concurrently filed information disclosure statement.

/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

MAILED

OCT 14 2010

OFFICE OF PETITIONS

KENSEY NASH CORPORATION
735 PENNSYLVANIA DRIVE
EXTON PA 19341

In re Application of	:	
John H. BREKKE, et al	:	
Application No. 11/564,788	:	ON PETITION
Filed: November 29, 2006	:	
Attorney Docket No. P00113.6	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2010 and September 7, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 5, 2007. 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 April 6, 2007.

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

With respect to item (1): A review of the Office record indicates the reply filed with the petition is incomplete. In this regard, the reply does not include a substitute specification and statement that the specification contains no new matter as required by the Notice mailed February 5, 2007. Accordingly, the reply filed with the petition is improper and cannot be accepted.

The Office acknowledges a separate statement of unintentional delay signed by Attorney Jeffrey R. Ramberg (Ramberg). In this regard, it is not apparent whether Ramberg 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.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KENSEY NASH CORPORATION
735 PENNSYLVANIA DRIVE
EXTON PA 19341

MAILED
JAN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
John H. BREKKE, et al	:	
Application No. 11/564,788	:	DECISION ON PETITION
Filed: November 29, 2006	:	
Attorney Docket No. P0013.6	:	

This is a decision on the renewed 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 reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed February 5, 2007. 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 April 6, 2007.

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

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

This application is being referred to the Office of Data Management for further pre-examination processing.

/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
P.O. Box 1450
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WANG LAW FIRM, INC.
4989 PEACHTREE PARKWAY, SUITE 200
NORCROSS, GA 30092

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Shih-Tung CHANG, et *al.*	:	
Application No. 11/564,802	:	DECISION ON PETITION
Filed: November 29, 2006	:	UNDER 37 CFR 1.181
Attorney Docket No. **A-002.P039/PN-06039-US**	:	

This is a decision on the petition, filed February 7, 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 May 25, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 17, 2010.

Petitioner asserts that the Office action dated May 25, 2010 was not received. Petitioner states that on March 24, 2010, a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address along with a Statement Under 37 CFR 3.73(b) was filed by the assignee.

A review of the written record indicates that a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address along with a Statement under 37 CFR 3.73(b) were submitted on March 24, 2010. 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. The Revocation of Power of Attorney submitted on March 24, 2010 has been accepted. All future correspondence will be mailed to the new address of record indicated below.

This application is being referred to the Technology Center technical support staff of Art Unit 2821 for re-mailing the Office action of May 25, 2010. The period for reply will run from the mailing date of the Office action.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **MORRIS MANNING & MARTIN, LLP**
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD, N.E.
ATLANTA, GA 30326-1044

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Patent No. 7,986,843
Issued: July 26, 2011
Application No. 11/564,823
Filed: November 29, 2006
Atty. Dkt. No.: 16113-0142001

: DECISION ON PATENT TERM
: and NOTICE OF INTENT TO
: ISSUE CERTIFICATE OF
: CORRECTION

This is a decision on the application for patent term adjustment filed September 26, 2011 requesting that the patent term adjustment be increased from 1002 days to 1151 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is GRANTED TO THE EXTENT INDICATED HEREIN.

The above-identified application matured into U.S. Pat. No. 7,986,843 on July 26, 2011. The patent issued with a patent term adjustment of 1002 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 301 days accorded pursuant to 37 CFR 1.702(b). Patentee further contests the reductions totaling five days for applicant delay.

With respect to patentee's argument that the period of adjustment pursuant to 37 CFR 1.702(b) totals 446 days, patentee'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 301 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.

Herein, a request for continued examination was filed September 27, 2010. Thus, excluding the period of time consumed by continued examination, the period of adjustment pursuant to 37 CFR 1.703(b) is 301 days.

With respect to the period of applicant delay, patentee's arguments have been carefully reviewed and found convincing. In view of the weekend rule, the period of applicant delay totalling five days has been restored.

In view thereof, at the time of issuance, the patent was entitled to an overall patent term adjustment of 1007 days (1064 days pursuant to 37 CFR 1.702(a) and 1.702(b) – 57 overlapping days – zero days of applicant delay).

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 1007 days.

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

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.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,986,843

DATED : July 26, 2011 **DRAFT**

INVENTOR(S) : Chaudhury, 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 1002 days

Delete the phrase "by 1002 days" and insert – by 1007 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-25-11

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/504,828 Patent No.: 7,667124

CofC mailroom date: 10-17-11

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

FOR IFW FILES: Should CofC be approved

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

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

FOR PAPER FILES:

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

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

E 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: CORRECTIONS ARE FOR CLARITY.

[signature] 10/4 2832

SPE **Art Unit**

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╜~jvajvajvaj ª╬■ ♣τ╜~à╜τ■ τ╜~jvajvajvaà╜τⁿ ↑╬Ptvajv~╕θ τ╜~jvajvajvaà╜τ■ ╨ªajvajv~Pt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/10

TO SPE OF : ART UNIT 3633

SUBJECT : Request for Certificate of Correction for Appl. No.: 11564917 Patent No.: 7770332

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

Brian Glenn
SPE

3633
Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Muhamed Semiz
Serial Number: 11/564,917
Filed: November 30, 2006
Patent No.: 7,770,332
For: STRUCTURE WITH SPACE APPLICATIONS AND METHODS OF CONSTRUCTIONS THEREOF

Examiner: James J. Buckle, Jr.
Group Art Unit: 3633
Confirmation No. 3342
Issued: August 10, 2010

Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
(617) 345-3000

TO: Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR A CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323

Sir:

In the matter of U.S. Patent No. 7,770,332 issued August 10, 2010, a check of same against the files of the attorney of record indicates that the errors described in the attached Form PTO/SB/44 were made by the Applicant in good faith.

More specifically, the following errors made by the Applicant, corrected in Form PTO/SB/44, are of a clerical nature, the mistakes having occurred in good faith:

On the title page, under OTHER PUBLICATIONS, "Applicant: Suresh Gopalan" should read -- Applicant: Muhamed Semiz--

In column 6, lines 9-10 (claim 2), "further comprising further comprising at least one" should read -- further comprising at least one --

In column 6, line 22 (claim 4), "where in said another conduit" should read -- wherein said another conduit --

In column 7, line 18 (claim 9), "each one said at least" should read -- each one of said at least --

In column 7, line 28 (claim 10), "each one of said at plurality" should read -- each one of said plurality --

REMARKS

Under 35 U.S.C. 255, whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require examination. Applicant inadvertently made the clerical errors as listed above. The errors were unintentional and made in good faith. Furthermore, it is clear that the corrections do not amount to a change in the patent that would constitute new matter or would require a search or re-examination.

The Director of Patents and Trademarks is authorized to charge the $100 Certificate of Correction fee, and fee deficiencies, or to credit any overpayment to our Deposit Account No. 03-2410 (Order No. 31869-101).

Dated: August 23, 2010

Respectfully submitted,
Muhamed Semiz, Applicant

By: Marlo M. Schepper
Marlo M. Schepper
Reg. No. 57,194
Agent for Applicant

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. : 7,770,332

APPLICATION NO.: 11/564,917

ISSUE DATE : August 10, 2010

INVENTOR(S) : Muhamed Semiz

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

On the title page, under OTHER PUBLICATIONS, "Applicant: Suresh Gopalan" should read -- Applicant: Muhamed Semiz--

In column 6, lines 9-10 (claim 2), "further comprising further comprising at least one" should read – further comprising at least one –

In column 6, line 22 (claim 4), "where in said another conduit" should read -- wherein said another conduit –

In column 7, line 18 (claim 9), "each one said at least" should read -- each one of said at least –

In column 7, line 28 (claim 10), "each one of said at plurality" should read -- each one of said plurality --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Burns & Levinson LLP
125 Summer Street
Boston, MA 02110

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 25 2011
OFFICE OF PETITIONS

Edward O. Yonter
Patent and Licensing Department
Nalco Company
1601 West Diehl Road
Naperville IL 60563-1198

In re Application of :
Furman et al :
Application No. 11/564,946 : ON PETITION
Filed: November 30, 2006 :
Attorney Docket No. 7945 :
For: METHOD OF APPLYING A SUPER-ABSORBENT COMPOSITION TO TISSUE OR TOWEL SUBSTRATES

This is a decision on the petition, filed February 15, 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 June 21, 2010 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 22, 2010. A Notice of Abandonment was mailed on January 19, 2011.

Applicants have submitted an amendment in reply to the June 21, 2010 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 21, 2010 non-final Office action, and the $1620.00 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 1741 for consideration of the amendment filed on February 15, 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

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

MARSH, FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER CO 80237

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of	:
Scott Allan Miller, III	:
Application Number: 11/565,014	: DECISION ON PETITIONS
Filing or 371(c) Date: 11/30/2006	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket Number: 45568-00565	:

This is a decision on the petition filed on February 3, 2011, which is treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently-filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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 or international applications 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 applications.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120, 365(c), and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3735 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.

Christopher Bottorff
Supervisor
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
11/565,014	11/30/2006	3735	900	45568-00565	31	5

CONFIRMATION NO. 3518

CORRECTED FILING RECEIPT

25231
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

OC000000046644977

Date Mailed: 03/25/2011

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

Applicant(s)

Scott Allan Miller III, Lafayette, CO;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 11/330,788 01/11/2006 PAT 7,775,964
which claims benefit of 60/643,074 01/11/2005
and claims benefit of 60/740,710 11/30/2005

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

If Required, Foreign Filing License Granted: 02/27/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/565,014**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

ADAPTIVE CANCELLATION SYSTEM FOR IMPLANTABLE HEARING INSTRUMENTS

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARBIE PALMER
1147 MANHATTAN AVE.
SUITE 117G
MANHATTAN BEACH, CA 90266

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Barbie Palmer	:	
Application No. 11/565,052	:	ON PETITION
Filed: November 30, 2006	:	
Attorney Docket No. 1984-2/EdeV	:	

This is in response to the communication, filed March 2, 2011, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On May 17, 2010, the Office mailed a Notice of Non-Compliant Amendment (Notice), which set one month or thirty (30) days, whichever is longer, period to reply. The application became abandoned on June 18, 2010, for failure to submit a timely response to the May 17, 2010 Notice. On December 8, 2010, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the May 17, 2010 Notice. Specifically, petitioner states "The post office never delivered the letter that was addressed to me Barbie Palmer from May 17th /2010 which was sent from the Patent office."

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the May 17, 2010 Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for her correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must

explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where she writes down due dates; how she knows replies are due, etc. In essence, petitioner must explain how she reminds herself of response due dates and show that the due date for the Notice of May 17, 2010, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after May 17, 2010, to demonstrate nonreceipt of the Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to the Notice, and where petitioner would have entered the receipt date of the Notice had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from herself, or any other person at the address who may have handled the Notice, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the May 17, 2010 Notice was not found. Lastly, petitioner must state that she was, in fact, residing at the correspondence address of record for a reasonable time after May 17, 2010; the period when she would have received the Notice.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of her method for tracking due dates for filing responses to communications from the USPTO to show she did not receive the May 17, 2010 Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the May 17, 2010 Notice accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Notice of Non-Compliant Amendment dated May 17, 2010.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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e 05/17/2010

Barbie Palmer
1147 Manhattan Ave
Suite 117G
Manhattan Beach, CA 90266

Paper No.

Application No.:	**11/565,052**	**Date Mailed:**	**05/17/2010**
First Named Inventor:	Palmer, Barbie,	Examiner:	VARNUM, RYAN A
Attorney Docket No.:	1984-2/EdeV	Art Unit:	3751
Confirmation No.:	3570	Filing Date:	11/30/2006

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

Commissioner for Patents

PTO-90c (Rev.08-06)

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 11/565,052	Applicant(s) PALMER, BARBIE	
		Art Unit 2100	

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

The amendment document filed on 28 April, 2010 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: *See Continuation Sheet*.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): 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, or a drawing submission (only) 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.

Legal Instruments Examiner (LIE), if applicable /DALE HALL/ Telephone No: (571)272-3586

Continuation of 4. Other: There is a fee due for a total of claims and multiple dependent claims (total of claims 32 and a fee of $442.00 for 17extra claims) and first time multiple dependent claim fee $195.00 a total of 637.00.

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BARBIE PALMER
1147 MANHATTAN AVE
SUITE 117G
MANHATTAN BEACH, CA 90266

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Barbie Palmer	:	
Application No. 11/565,052	:	DECISION ON PETITION
Filed: November 30, 2006	:	
Attorney Docket No. 1984-2/EdeV	:	

This is a decision on the renewed petition, filed May 17, 2011, which is being treated as a renewed petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed May 17, 2010, which set one (1) month, or thirty (30) days, whichever is longer, period for reply. A Notice of Abandonment was mailed on December 8, 2010.

Petitioner asserts that the Notice dated May 17, 2010 was not received.

Petitioner has provided the necessary showing required to establish non-receipt of an Office communication. In this regard, the Notice of Abandonment mailed December 8, 2010 is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center technical support staff of Art Unit 3751 for remailing the Notice of May 17, 2010 and resetting the period for reply.

Irvin Dingle
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/565,235	11/30/2006	Ralf-Peter PETERS	740116-708	3857

25570 7590 11/14/2011
ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

EXAMINER
HOGAN, JAMES SEAN

ART UNIT	PAPER NUMBER
3752	

NOTIFICATION DATE	DELIVERY MODE
11/14/2011	ELECTRONIC

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

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

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

lgallaugher@rmsclaw.com
dbeltran@rmsclaw.com
docketing@rmsclaw.com

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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN VA 22102-8064

In re Application of:
PETERS, RALF-PETER et al
Serial No. 11/565,235
Filed: Nov. 30, 2006
Docket: 740116-708
Title: INHALER AND STORE FOR A DRY MEDICAMENT FORMULATION AND RELATED METHODS AND USE THEREOF

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed November 4, 2011 under 37 CFR § 1.181 requesting entry of the Rule 116 Amendment filed on October 5, 2011 for appeal purpose. This petition is being considered pursuant to 37 CFR § 1.181, and no fee is required.

The petition is dismissed.

In the petition, petitioner indicates that the examiner has agreed to enter the Rule 116 Amendment for appeal purpose during a telephone conversation on October 28, 2011.
A review of the record in deed shows a second Advisory Action was sent on November 9, 2011 indicating the Rule 116 Amendment of October 5, 2011 will be entered for appeal purpose.

In view of the second Advisory Action of November 9, 2011, the petition is moot and subject to dismissal.

The application is being forwarded to the examiner via the Supervisory Patent Examiner for preparation of a Pre-Appeal Brief conference as requested by the applicant. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Donald T. Hajec, Director
Technology Center 3700

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DEC 22 2010

OFFICE OF PETITIONS

ORACLE INTERNATIONAL CORPORATION
C/O VISTA OP LAW GROUP, LLP
1885 LUNDY AVENUE
SUITE 108
SAN JOSE, CA 95131

In re Application of	:	
Stephen John Vivian, et al.	:	
Application No. 11/565,255	:	DECISION DISMISSING PETITION
Filed: November 30, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. OID 2005-054-01-CIP	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 11/603,503, filed November 22, 2006.

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 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 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

amendment 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 can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

The issue fee in this case was paid on December 15, 2010. Therefore, it is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. §1.78(a)(3). In such case, submission of a certificate of correction (along with the $100 fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

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

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By hand: Customer Service Window
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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 April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Kong, et al. :
Application No. 11/565,373 : ON APPLICATION FOR
Filed: November 30, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. **18016US01** :

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)" filed December 10, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is one thousand thirty-two (1,032) days, not five hundred and seventy-nine (579) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 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

---

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/565,455	11/30/2006	Shen-Ge Wang	20050894-US-NP	4224

7590 01/13/2011
PATENT DOCUMENTATION CENTER
XEROX CORPORATION
100 CLINTON AVE SOUTH
MAILSTOP: XRX2-020
ROCHESTER, NY 14644

EXAMINER
RAMOS, JAVIER J

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
01/13/2011	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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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January 13, 2011

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ROCHESTER NY 14644

In re Application of	:	
Shen-Ge Wang et al.	:	**DECISION ON PETITION**
Application No. 11565455	:	
Filed: 11/30/2006	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 20050894-US-NP	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 5, 2006.

The petition is **GRANTED**.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

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SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

MAILED

JAN 04 2012

OFFICE OF PETITIONS

In re Application of	:
David Colbourne et al.	: DECISION GRANTING PETITION
Application No. 11/565,473	:
Filed: November 30, 2006	:
Attorney Docket No. TS7676 (US)	:

This is a decision on the petition filed December 16, 2011 under 37 CFR 1.137 (b) 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 January 7, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on March 10, 2009. *See* MPEP 1215.04.

Comes now petitioner with the instant petition to revive and an Appeal Brief under 37 CFR 41.37.

This application is being forwarded to Technology Center 3747 for review of the Appeal Brief filed December 16, 2011.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 4/25/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/565496 Patent No.: 7773108 B2

CofC mailroom date: 3/10/2011

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:

SPE

2614
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/16/10 **Paper No.:** ____

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/525,518 Patent No.: 7769284 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: Requested correction does not change the scope of the claims. Correction is to change the typo.

/Patrick Assouad/ SPE AU2858

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

MAILED
JAN 27 2011
OFFICE OF PETITIONS

In re Application of
Tony K. Tang et al
Application No. 11/565,518
Filed: November 30, 2006
Attorney Docket No. M-16466 US

: DECISION DISMISSING PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: 1.78(a)(6)
:
:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 2, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

MPEP 1481.03(b) states:

> Under no circumstances can a Certificate of Correction be employed to correct an applicant's mistake by adding or correcting a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000.
>
> Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119(e)(1) to state that:
>
> > No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section *during the pendency of the application.*
>
> A Certificate of Correction is NOT a valid mechanism for adding or correcting a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000.

The Certificate of Correction accompanying the petition includes benefit claims to provisional application nos. 60/552,521 and 60/657,261. In view of the above, the filing of a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), along with the submission of a Certificate of Correction, is not the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior filed provisional application after issuance of the application into a patent. Petitioner may wish to seek such a benefit claim in a reissue application. See MPEP 1402.

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 Irvin Dingle at (571) 272-3210.

/dab/
David Bucci
Petition Examiner
Office of Petitions

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

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,769,284
Issue Date: August 3, 2010
Application No. 11/565,518
Filed: November 30, 2006
Attorney Docket No. M-16466 US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the renewed petition filed June 17, 2011, under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application Nos. 11/078,667, filed March 11, 2005 and 11/268,849, filed November 8, 2005, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a 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) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed November 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 application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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.

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 application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The Application Data Sheet submitted with the renewed petition on June 17, 2011 does not list the Application Number; i.e., 11/565,518. Therefore, the Application Data Sheet is improper.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, 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 application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

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

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

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/565,518	11/30/2006	2858	1665	M-16466 US	47	5

CONFIRMATION NO. 4327

CORRECTED FILING RECEIPT

96863
Haynes and Boone, LLP
IP Section
2323 Victory Avenue, Suite 700
Dallas, TX 75219

OC000000048583191

Date Mailed: 07/05/2011

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)

Tony K. Tang, Glendale, CA;
Jing Xu, Irvine, CA;
Roman C. Gutierrez, Arcadia, CA;

Power of Attorney: The patent practitioners associated with Customer Number 32605

Domestic Priority data as claimed by applicant

This application is a CIP of 11/361,608 02/24/2006 PAT 7,813,634
and is a CIP of 11/078,667 03/11/2005 PAT 7,477,842
and is a CIP of 11/268,849 11/08/2005 PAT 7,646,969

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

If Required, Foreign Filing License Granted: 01/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/565,518**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LENS BARREL ASSEMBLY FOR A CAMERA

Preliminary Class

396

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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SUITE 3400
CHICAGO IL 60661

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AUG 30 2010

OFFICE OF PETITIONS

In re Application :
Chang, et al. :
Application No. 11/565,520 : PATENT TERM ADJUSTMENT
Filed: November 30, 2006 :
Dkt. No.: 17940US01 :

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 August 17, 2010. This matter is being properly treated under 37 CFR 1.705(b).

Applicant submits that the correct patent term adjustment to be indicated on the patent is 974 days, not 616 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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In re Application of	:	
Conroy et al.	:	ON APPLICATION FOR
Application No. 11/565567	:	RECONSIDERATION OF
Filing or 371(c) Date: 11/30/2006	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
17718US01	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDR 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed October 4, 2010. Applicant's petition for reconsideration of the patent term adjustment calculation to 986 days, not 570 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon (1) an assertion that the Office will take in excess of three years to issue this patent, and (2) an assertion that the Office erred in calculating a delay of two (2) days. The petition is properly treated under37 C.F.R. § 1.705(b).

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating a delay of two (2) days is **DISMISSED**.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the Office's failure to issue the patent within 3 years of the filing date is **DISMISSED as PREMATURE**.

On July 9, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 570 days.

On October 4, 2010, applicant timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected

[1] PALM records show that the Issue Fee payment was received in the Office on October 4, 2010.

from 570 days, as indicated on the Determination of PTA mailed July 9, 2010, to an adjustment of 986 days.

Applicant contests a reduction of the patent term in connection with the filing of reply to a non-final Office action, mailed February 1, 2010, on Monday, May 3, 2010. Applicant's position is that the reply to the Office action was filed on the first business day after a deadline falling on a weekend or a holiday, and is not late. Applicant cites to 37 CFR §§ 1.6(a)(1) and 1.7(a), and provides in relevant part, that when the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on a Saturday, Sunday or on a Federal Holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday or a Federal Holiday.

Regarding the delay of two (2) days attributed to Applicant under 37 CFR 1.704(b), in connection with the filing of the reply to the non-final Office action on Monday, May 3, 2010, Applicant's attention is directed to 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 <u>in this calculation</u>" of patent term adjustment. That is, while the date indicated on any certificate of mailing or transmission under § 1.8 will continue to be taken into account in determining timeliness, <u>the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation</u>. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee" service of the United States Postal Service (§ 1.10) or facsimile transmission (§ 1.6(d)) for replies to be accorded the earliest possible <u>filing date</u> for patent term adjustment calculations. (Emphasis supplied). *See also*, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*; *Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

In accordance with 37 CFR 1.703(f), the Office properly used Monday, May 3, 2010, the filing date of the reply to the non-final Office action, in calculating the patent term adjustment. Accordingly, Patentees' argument on request for reconsideration of patent term adjustment as it relates to the assertion that the Office erred in calculating a delay of two (2) days is not found persuasive.

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

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

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

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CHICAGO IL 60661

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AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Sollengerger, et al.	:	
Application No. 11/565,579	:	ON REQUEST FOR
Filed: November 30, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 17943US01	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed June 18, 2010. Applicants believe that they should be accorded an additional PTA of 316 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **five hundred fifty (550) days** (572 days of PTO delay, reduced by 22 days of Applicant delay).

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

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

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

Anthony Knight
Director
Office of Petitions

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

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OFFICE OF PETITIONS

GARRANA TRAN LLP
2000 BERING DRIVE
SUITE 150
HOUSTON TX 77057

In re Application of	:	
Brent MCDONALD, et al	:	
Application No. 11/565,620	:	ON PETITION
Filed: November 30, 2006	:	
Attorney Docket No. DL005.0026	:	

This is a decision on the renewed petitions under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2010 and September 8, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability (Notice), mailed February 5, 2010, which set a period for reply of **three (3) months**. Accordingly, this application became abandoned on May 6, 2010.

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

With respect to item (1): The petition in the above-identified application was not accompanied by the proper reply as indicated in the Notice dated February 5, 2010. In this regard, the Examiner assigned to this application has determined that the drawings filed June 7, 2010, will not be approved. See the Examiner's Amendment filed with the Notice dated February 5, 2010. Any questions concerning the Notice or the required reply, should be directed to the Examiner at (571) 270-7916. Since the proper reply has not been submitted, the petition cannot be considered proper under 37 CFR 1.137(b).

Additionally, petitioner should ensure any future petitions are properly signed.

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
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Alexandria, VA 22313-1450

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

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

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

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

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GARRANA TRAN LLP
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HOUSTON TX 77057

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JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
Brent MCDONALD, et al :
Application No. 11/565,620 : DECISION ON PETITION
Filed: November 30, 2006 :
Attorney Docket No. DL005.0026 :

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

The petition is **GRANTED**

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability (Notice), mailed February 5, 2010, which set a period for reply of **three (3) months**. Accordingly, this application became abandoned on May 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 corrected drawings, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The corrected drawings filed with the renewed petition dated December 15, 2010, have been approved by the Examiner assigned to this application.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLER THOMPSON, LLP
SCOTIA PLAZA
40 KING STREET WEST, SUITE 5800
TORONTO ON M5H 3S1 CA CANADA

MAILED
JUL 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Qi et al.	:	
Application No. 11/565,684	:	DECISION ON PETITION
Filed: December 1, 2006	:	
Attorney Docket No. 062108.0067/ADF	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, November 5, 2010, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on March 8, 2011. A Notice of Abandonment was mailed June 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114 (previously filed March 7, 2011); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Additionally, 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, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further, although the petition is signed by a registered patent attorney/agent it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney/agent must contain his/her registration number. However, the accompanying document does include the signature and registration number for Eugene J.A. Gierczak. Therefore, the petition is accepted as being properly signed.

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 submitted on March 7, 2011.

/Joan Olszewski/
Joan Olszewski
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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FELDMAN GALE, P.A.
1700 Market Street
Suite 3130
Philadelphia PA 19103

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Rao S. Bezwada	:	
Application No. 11/565,820	:	DECISION ON PETITION
Filed: December 1, 2006	:	TO WITHDRAW
Attorney Docket No. 1060-BEZW0004U	:	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 31, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Walter C. Frank on behalf of all attorneys/agents associated with customer number 44338. All attorneys/agents associated with customer number 44338 have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rao S. Bezwada
15-1 Ilene Court
P.O. Box 6357
Hillsborough, NJ 08844

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
11/565,820	12/01/2006	Rao S. Bezwada	1060.BEZW0004U

CONFIRMATION NO. 4777

POWER OF ATTORNEY NOTICE

44338
FELDMAN GALE, P.A.
1700 Market Street
Suite 3130
Philadelphia, PA 19103

OC000000046794754

Date Mailed: 03/28/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/31/2011.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
17330 PRESTON ROAD
SUITE 100B
DALLAS TX 75252

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Phil G. Gilbert et al.	:	
Application No. 11/566,036	:	DECISION ON PETITION
Filed: December 1, 2006	:	
Attorney Docket No. AUS920105102US2	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 10, 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 11, 2010. A Notice of Abandonment was mailed on December 30, 2010.

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

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

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

This application is being referred to Technology Center AU 3624 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 15 2010

OFFICE OF PETITIONS

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of	:	
Wesley W. Whitmyer, Jr.	:	
Application No. 11/566,043	:	NOTICE
Filed: December 01, 2006	:	
Attorney Docket No. 03000-P0050A	:	

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
17330 PRESTON ROAD
SUITE 100B
DALLAS TX 75252

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Damion A. HEREDIA et al.	:	
Application No. 11/566,045	:	DECISION ON PETITION
Filed: December 01, 2006	:	
Attorney Docket No. AUS920105102US3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 03, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 03, 2010. Accordingly, the date of abandonment of this application is December 04, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.,00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division 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
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MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Phil G. GILBERT et al.	:	
Application No. 11/566,065	:	DECISION ON PETITION
Filed: December 01, 2006	:	
Attorney Docket No. AUS920105102US4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 23, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 23, 2010. Accordingly, the date of abandonment of this application is December 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.,00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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MAILED

JUN 28 2011

OFFICE OF PETITIONS

FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,890,499	: DECISION ON
Dustin Boswell	: REQUEST FOR RECONSIDERATION
Application No. 11/566,083	: of PATENT TERM ADJUSTMENT
Issue Date: February 15, 2011	:
Filed: December 1, 2006	:
Attorney Docket No. 16113-0092002	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed April 14, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from ninety-three (93) days to two hundred twenty-six (226) days.

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

On February 15, 2011, the instant application matured into U.S. Patent No. 7,810,024 with a patent term adjustment of ninety-three (93) days. The Office determined a patent term adjustment of 93 days based upon 146 days of Office delay pursuant to 37 CFR 1.703(a)(1), reduced by 53 days of Applicant delay pursuant to 37 CFR 1.704(b).

Patentee argues that even though he filed an RCE (on May 5, 2009 and again on June 14, 2010), he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on October 6, 2010 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 133 days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

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

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

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

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on December 1, 2006 and a request for continued examination under 132(b) having been filed on May 5, 2009. In other words, the 133 day period beginning on the date of mailing of the notice of allowance on

October 6, 2010 to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, (580 F. Supp. 2d 138), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than

three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 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.

---

[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.

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 procedures3 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).

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

In this instance, a request for continued examination was filed on May 5, 2009, and the patent issued by virtue of that request on February 15, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 5, 2009 and ending on February 15, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 93 days indicated on the patent is correct.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MAILED
SEP 13 2011
OFFICE OF PETITIONS

In re Patent No. 7,890,499	: DECISION ON
Dustin Boswell	: REQUEST FOR RECONSIDERATION
Application No. 11/566,083	: of PATENT TERM ADJUSTMENT
Issue Date: February 15, 2011	:
Filed: December 1, 2006	:
Attorney Docket No. 16113-0092002	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed August 26, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from ninety-three (93) days to two hundred twenty-six (226) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DENIED.** This decision is a final agency action within the meaning of 5 U.S.C. §704 for purposes of seeking judicial review. *See* MPEP 1002.02.

On February 15, 2011, the instant application matured into U.S. Patent No. 7,810,024 with a patent term adjustment of ninety-three (93) days. The Office determined a patent term adjustment of 93 days based upon 146 days of Office delay pursuant to 37 CFR 1.703(a)(1), reduced by 53 days of Applicant delay pursuant to 37 CFR 1.704(b).

Patentee argues that even though he filed an RCE (on May 5, 2009 and again on June 14, 2010), he should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on October 6, 2010 until the issue date of the patent. In other words, Patentee argue that no continued examination took place during this time period, and the Office should be accorded 133 days of delay pursuant to 37 CFR 1.703(b). Patentee's argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

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

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

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

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on December 1, 2006 and a

request for continued examination under 132(b) having been filed on May 5, 2009. In other words, the 133 day period beginning on the date of mailing of the notice of allowance on October 6, 2010 to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8).

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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.

Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, (580 F. Supp. 2d 138), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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

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

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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 request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to

disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

In this instance, a request for continued examination was filed on May 5, 2009, and the patent issued by virtue of that request on February 15, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 5, 2009 and ending on February 15, 2011 is not included in calculating Office delay.

CONCLUSION

The prior decision has been reconsidered. However, for the reasons stated above, it is concluded that the patent term adjustment of 93 days indicated on the patent is correct.

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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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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OFFICE OF PETITIONS

In re Patent No. 7,890,499	:	
Dustin Boswell	:	FINAL AGENCY DECISION
Application No. 11/566,083	:	ON REQUEST TO INVOKE THE
Issue Date: February 15, 2011	:	SUPERVISORY AUTHORITY
Filed: December 1, 2006	:	OF THE DIRECTOR
Attorney Docket No. 16113-0092002	:	

This is a decision on the petition captioned "PETITION UNDER 37 C.F.R. § 181(a)(3) TO INVOKE THE SUPERVISORY AUTHORITY OF THE DIRECTOR", filed Monday, November 14, 2011, requesting that the Director review the Final Agency Decision on Request for Reconsideration of Decision on Application for Patent Term Adjustment ("Decision") mailed by the Office of Petitions on September 13, 2011.

The Decision maintains that the above-identified patent is entitled to ninety-three (93) days of patent term adjustment ("PTA"). Patentee requests that the Director review the decision and modify the PTA calculation to two hundred twenty-six (226) days.

The decision of the Director of the Office of Petitions has been reviewed. However, because no error has been found in the decision, the petition under 37 CFR §1.181 is **DENIED**.

The patent term adjustment remains 93 days, as indicated in the final agency action of September 13, 2011.

Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Osamu Wakabayashi, et al.
Application No. 11/566,235
Filed: December 3, 2006
Attorney Docket No. A-503D/GP118804N-P-US-DIV

DECISION ON PETITION

This is a decision on the renewed petition, filed June 9, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the records discloses that a Notice of Appeal was filed on February 9, 2010, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before April 9, 2010, or on or before September 9, 2010 with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a). Since petitioner may obtain an extension of time up to an including five (5) months, this case is not in fact abandoned. The original reply received is now in the file.

Petitioner states that a timely reply was filed via EFS Web on June 9, 2010, which included the following papers: a Request for Continued Examination with a two (2) month extension of time and an amendment concurrently with the petition.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of December 8, 2008 is hereby **withdrawn** and the **application restored to pending status**.

In view of the timely filed RCE and appropriate filing of the extension of time the Appeal process is terminated and this application is being forwarded back to the Technology Center for processing of the RCE and submission in accordance to 37 CFR 1.114.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7957449 B2
Application No.: 11/566235
Inventor(s) : Osamu WAKABAYASHI et al.
Issued : June 7, 2011
Attorney Docket No.: A-503D/GP118804N-P-US-DIV

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

EFS-Web (Web-based Electronic Filing System) accessible through the Electronic Business Center (EBC)

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

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 04/03/2012

Address: Scott A. Hughes
HOGAN LOVELLS US LLP
555 Thirteenth Street, N.W.
Washington, D.C. 20004

/ts

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HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

MAILED
APR 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,834,815	:	
Issue Date : November 16, 2010	:	
Application No. 11/566,327	:	ON PETITION
Filed: December 4, 2006	:	
Attorney Docket No. 065277.00050	:	

This is a decision on the petition, filed February 17, 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 request is **DISMISSED**.

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

> *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 under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent, 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.

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

Inquiries concerning this decision should be directed to Diane C. Goodwyn at (571) 272-6735.

Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

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HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,834,815	:	
Issue Date : November 16, 2010	:	
Application No. 11/566,327	:	ON PETITION
Filed: December 4, 2006	:	
Attorney Docket No. 065277.00050	:	

This is a decision on the petition, filed May 5, 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 request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))**
Application Number	11566412
Filing Date	04-Dec-2006
First Named Inventor	Masahiro Mimura
Attorney Docket Number	MAT-8544US1
Title of Invention	IMPULSE WAVEFORM GENERATING APPARATUS

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 8060044 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

☒ I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Correction of Assignee

Current Assignment Listed (240 char limit)
The assignment information is currently listed as:

<blank>

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

Panasonic Corporation, Osaka (JP)

☒ As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).

- ◯ Applicant(s) status remains as OTHER THAN small entity.
- ◯ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ◯ Applicant(s) status remains as SMALL ENTITY.
- ◉ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ◯ A sole inventor
- ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ◯ A joint inventor; all of whom are signing this request
- ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Lawrence E. Ashery/
Name	Lawrence E. Ashery
Registration Number, if applicable	34515

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Decision Date:	January 19, 2012
In re Patent No.	8060044
Issue Date:	15-Nov-2011
Application No	11566412
Filed date	04-Dec-2006
Attorney Docket No	MAT-8544US1

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed January 19, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

<blank>

Change Assignment Information to the Following:

Panasonic Corporation, Osaka (JP)

The request is GRANTED.

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

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUL 21 2011
OFFICE OF PETITIONS

FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115-1843

In re Application of	:	
Frederic FAUCHEUX et al.	:	ON PETITION
Application No. 11/566,420	:	
Filed: December 4, 2006	:	
Atty. Docket No.: LUTZ 200827		

This is a decision on the petition under 37 CFR 1.181, filed May 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed April 29, 2011 for failure to appropriately respond to the final Office action mailed September 20, 2010 be withdrawn as petitioner timely filed a response.

A review of the record indicates that a Notice of Appeal, plus two months extension of time under 37 CFR 1.136(a) was timely filed February 2, 2011. Thus, the Notice of Abandonment mailed April 29, 2011 is withdrawn as premature. The application is hereby restored to pending status.

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

This application is being referred to Technology Center Art Unit 2466 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Ramesh Krishnamurthy
for Anthony Knight
Director
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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STEINS & ASSOCIATES
2333 CAMINO DEL RIO SOUTH
SUITE 120
SAN DIEGO, CA 92108

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Jamie Etcheson	:	
Application No. 11/566,424	:	ON PETITION
Filed: December 4, 2006	:	
Attorney Docket No. DR19-L49	:	

This is a decision on the petition filed July 2, 2010 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 February 26, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 27, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue 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.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHELL OIL COMPANY
PO BOX 2463
HOUSTON TX 77252-2463

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of
Raul VALDEZ, et al
Application No. 11/566,545
Filed: December 4, 2006
Docket No.: TH2991 (US)

DECISION
ON PETITION

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 **DISMISSED**.

The application became abandoned for failure to timely file corrected drawings on or before July 28, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 28, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 29, 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); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1)

With respect to item (1): As required by the Notice mailed April 28, 2010, corrected drawings were required. In this regard, the drawings filed with the petition dated November 3, 2010, does not include the label "replacement sheet," in the top margin of each drawing sheet, as required by 37 CFR 1.121(d). Please see the Notice dated April 28, 2010, and direct any inquiries to the Examiner at (571) 272-3717. Since the reply cannot be accepted, the petition does not meet the requirements set forth in 37 CFR 1.137(b).

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

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

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

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

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

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
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MAILED

MAR 25 2011

OFFICE OF PETITIONS

SHELL OIL COMPANY
PO BOX 2463
HOUSTON TX 77252-2463

In re Application of	:	
VALDEZ, et al	:	
Application No. 11/566,545	:	DECISION ON PETITION
Filed: December 4, 2006	:	
Attorney Docket No. TH2991 (US)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 28, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The Examiner assigned to this application has approved the replacement drawings.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
FEB 03 2012
OFFICE OF PETITIONS

In re Patent No. 7,930,419	:	
Issue Date: April 19, 2001	:	
Application No. 11/566,561	:	DECISION ON PETITION
Filed: December 4, 2006	:	
Attorney Docket No. 040394/320809	:	

This is a decision on the Request, filed November 28, 2011, requesting correction on the Title Page of the subject patent to add "Turner Broadcasting System, Inc. (TBS, Inc.)" as the correct assignee. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form was submitted with the Petition.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests that the present Petition was submitted to add "Turner Broadcasting System, Inc. (TBS, Inc.)" as the correct assignee on the previously submitted PTOL-85B and that such error was the fault of the United States Patent and Trademark Ofice. Accordingly, petitioner request, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to add the correct assignee's name.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

Section 1481.01, Correction of Assignees' Names, of the Manual of Patent Examining Procedures (MPEP) states, in part:

> "The Transmittal Form portion (PTOL-85B) of the Notice of Allowance Provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Transmittal Form (PTOL-85B)), the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.
>
> Any request for the issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee must:
>
> (A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of patent;
> (B) include a request for certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
> (C) include the processing fee set forth in 37 CFR 1.17(i)."

The petition states that the error in not providing the correct assignee's name on the front of the patent was the fault of the United States Patent and Trademark Office. However, a review of the Issue Fee Transmittal Form (PTO 85B) clearly reveals that the name of the assignee to be printed on the patent was ***Turner Broadcasting System, Inc.*** and the alleged error was ***not*** the fault of the United States Patent and Trademark Office.. Section 1481.01, supra, state that assignment data printed on the patent will be based solely on the information so supplied in the Issue Fee Transmittal Form (PTOL-85B).

Inquiries related this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MAY 17 2011

SCHLUMBERGER K.K.
2-2-1 FUCHINOBE, CHUO-KU, SAGAMIHARA-SHI
KANAGAWA-KEN, 252-0206
JAPAN

In re Application of Peter T. Wu et al Application No. 11/566,600 Filed: December 4, 2006 For: METHODS AND SYSTEM FOR COMPRESSING SONIC LOG DATA	: : : :	PETITION TO ACCEPT COLOR DRAWINGS/PHOTOGRAPHS

This is a decision on applicant's petition under 37 CFR 1.184(A)(2) Filed April 12, 2009 to accept color drawings/photographs.

For the acceptance of color drawings in accordance with 37 CFR 1.184(A)(2), a petition is required which fulfills the following requirements:

(i) The appropriate fee set forth in 1.17(h),
(ii) three (3) sets of color drawings/photographs, and
(iii) amending the specification 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 photography. Copies of this patent with color photographs will be provided by the Patent and Trademark Office upon request and payment of necessary fee."

Having met the requirements of 37 CFR 1.184(A)(2), the petition is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at the number listed below.

Jack Keith
Supervisory Patent Examiner
Art Unit 3663
(571) 272-6878

jwk: 5/17/11

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/566,600	12/04/2006	PETER T. WU	24.0920 US CIP	6268

30686 7590 11/29/2011
SCHLUMBERGER K.K.
10001 Richmond Avenue
IP Administration Center of Excellence
Houston, TX 77042

EXAMINER
BREIER, KRYSTINE E

ART UNIT	PAPER NUMBER
3663	

NOTIFICATION DATE	DELIVERY MODE
11/29/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USDocketing@slb.com
jalverson@slb.com
jwilson41@slb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 2 8 2011

SCHLUMBERGER K.K.
10001 Richmond Avenue
IP Administration Center of Excellence
Houston, TX 77042

In re Application of Peter T. Wu et al Application No. 11/566,600 Filed: December 4, 2006 For: METHODS AND SYSTEMS FOR COMPRESSING SONIC LOG DATA	: : : :	PETITION TO ACCEPT COLOR DRAWINGS/PHOTOGRAPHS

This is a decision on applicant's petition under 37 CFR 1.184(A)(2) filed July 16, 2009 to accept color drawings/photographs.

For the acceptance of color drawings in accordance with 37 CFR 1.184(A)(2), a petition is required which fulfills the following requirements:

(i) The appropriate fee set forth in 1.17(h),
(ii) three (3) sets of color drawings/photographs, and
(iii) amending the specification 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 photography. Copies of this patent with color photographs will be provided by the Patent and Trademark Office upon request and payment of necessary fee."

Having met the requirements of 37 CFR 1.184(A)(2), the petition is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at the number listed below.

Jack Keith
Supervisory Patent Examiner
Art Unit 3663
(571) 272-6878

jwk: 11/28/11

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Neugeboren O'Dowd PC
1227 Spruce Street
SUITE 200
BOULDER CO 80302

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Fernando Gustavo Tomasel et al.	:	
Application No. 11/566,610	:	DECISION ON PETITION
Filed: December 4, 2006	:	
Attorney Docket No. **ADEN-016/00US/AE2006-003**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected drawings on or before February 15, 2011, as required by the Notice of Allowability, mailed November 15, 2010. Accordingly, the date of abandonment of this application is February 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

JoAnne Burke
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Edward Furman	:	
Application No. 11/566,771	:	ON REQUEST FOR
Filed: December 5, 2006	:	RECONSIDERATION OF
Attorney Docket Number: 076986=0102	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 11, 2010. Applicant believes that he should be accorded an additional PTA of 290 days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred sixty-eight (468) days** (468 days of PTO delay, reduced by 0 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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: 105995-US-NP	Patent Number: 7,656,363
Filing Date (or 371(b) or (f) Date): December 5, 2006	Issue Date: February 2, 2010
First Named Inventor: Michel Devicque	
Title: Radio communication antenna fitted with a radome and method of assembling this kind of radio communication antenna fitted with a radome	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/	Date August 1, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 08/06/2010

Applicant	: Michel Devicque	: DECISION ON REQUEST FOR
Patent Number	: 7656363	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/566,951	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **279** 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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John J. Oskorep, Esq. LLC
980 North Michigan Avenue, Suite 1400
One Magnificent Mile Center
Chicago, IL 60611

Mail Date: 10/06/2010

Applicant	: William Daniel Willey	: DECISION ON REQUEST FOR
Patent Number	: 7647042	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/566,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **433** 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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BOZICEVIC FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

MAILED
MAY 13 2011
OFFICE OF PETITIONS

In re Application of :
Shimon Weiss et al :
Application No. 11/566,998 : ON PETITION
Filed: December 5, 2006 :
Attorney Docket No. LBLB-002CIPCON3

This is a decision on the petition, filed May 12, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 30, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1631 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Robert Jones, et al.	:	
Application No. 11/567,061	:	DECISION ON PETITION
Filed: December 5, 2006	:	
Attorney Docket No. P1243D	:	

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 10, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed . Accordingly, the date of abandonment of this application is May 10, 2010. The Notice of Abandonment was mailed August 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Jonson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,819,327	:	DECISION ON
Jones, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: October 26, 2010	:	AND NOTICE OF INTENT
Application No. 11/567,061	:	TO ISSUE
Filed: December 5, 2006	:	CERTIFICATE OF
Attorney Docket No. 38820-514C02US	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. § 1.705(d)", filed December 23, 2010. Patentees request that the patent term adjustment indicated on the patent be corrected from four hundred ninety-eight (498) days to five hundred thirteen (513) 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 **five hundred thirteen (513)** days.

On October 26, 2010, the above-identified application matured into U.S. Patent No. 7,819,327. Patentee timely filed an application for patent term adjustment under 37 CFR 1.705(d) on December 23, 2010. Patentees assert that they should not have been assessed applicant delay of 15 days for the late submission of the issue fee pursuant to 37 CFR 1.704(b). Rather, patentees assert that they were already properly assessed 34 days pursuant to 37 CFR 1.704(c)(3).

37 CFR 1.704(c)(3) states that abandonment or late payment of the issue fee shall constitute a failure to engage in reasonable efforts to prosecute the application. In such a situation, the adjustment is reduced by the number of days:

> beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

Here, the application became abandoned on August 11, 2010, and the decision reviving the application was mailed on September 13, 2010. Accordingly, pursuant to 37 CFR 1.704(c)(3), applicant delay should have been assessed as 34 days. It was improper for the Office to assess applicants an additional 15 days of delay for the period from August 11, 2010 to August 25, 2010.

In view thereof, the correct determination of PTA at the time of issuance is five hundred thirteen (513) days (338 days of "A" delay and 325 days of "B" delay, reduced by 150 (28+88+34) days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-0311, as authorized.

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 **five hundred thirteen (513)** 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

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,819,327 B2

DATED : **October 26, 2010**

INVENTOR(S) : Jones et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 498 days.

Delete the phrase "by 498 days" and insert – by 515 days--

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HOLME ROBERTS & OWEN LLP
1700 LINCOLN STREET, SUITE 4100
DENVER, CO 80203

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of
Giancarlo Barolat
Application No. 11/567,136
Filed: December 5, 2006
Attorney Docket No. 53613-10100

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 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 on January 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOLME ROBERTS & OWEN LLP
1700 LINCOLN STREET, SUITE 4100
DENVER CO 80203

MAILED
MAR 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Giancarlo Barolat	:	
Application No. 11/567,136	:	DECISION ON PETITION
Filed: December 5, 2006		TO WITHDRAW FROM RECORD
Attorney Docket No. 53613-10100	:	
	:	

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 24, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Mark L. Yaskanin on behalf of all attorneys of record who are associated with Customer Number 23337.

All attorneys/agents associated with the Customer Number 23337 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed December 23, 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: Dr. Giancarlo Barolat
730 Genesse Mountain Road
Golden, CO 80401

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/26/2011

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/567189 Patent No.: 7897237B2

CofC mailroom date: 9/13/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

received 10/07/2011 /M.S/

The proposed corrections to claims 5 (p.7), 7 (p.9), 9 (p.10), 12 (p.13) 13 (p.14), 17 (p. 18), and 18 (p.19) in the Certificate are NOT APPROVED.
These proposed corrections would result in claims which do not end in a period.
The remaining corrections are approved. Please note some of the other corrections are to punctuation.
10/07/2011
/M.S./
Examiner
Art Unit 1637

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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SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of
Yang et al.
Application No. 11/567,211
Filed: December 6, 2006
Attorney Docket No. VIMICRO-114

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 7, 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 September 27, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 28, 2010. A Notice of Abandonment was mailed June 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 2422 for appropriate action by the Examiner in the normal course of business on the reply received June 7, 2011.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 31, 2011

In re Application of : DECISION ON PETITION

Dave Yang

Application No : 11567211

Filed : 06-Dec-2006

Attorney Docket No : VIMICRO-114

This is an electronic decision on the petition, filed December 31, 2011 ,which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED.**

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on

12-06-2006

However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:
(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date will be viewable in Private PAIR within one (1) business day.

This application file is being directed to the Office of Data Management.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64a U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING UNDER 37 CFR 1.137(f)**
Application Number	11567211
Filing Date	06-Dec-2006
First Named Inventor	Dave Yang
Art Unit	2422
Examiner Name	MICHAEL LEE
Attorney Docket Number	VIMICRO-114
Title	HYBRID ARCHITECTURE OF TV RECEIVING DEVICES

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b).

A grantable petition requires the following items:
(1) Petition fee;
(2) Reply;
(3) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☒ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

☒ Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requries publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is 12-06-2006

☒ The non-publication request has been filed on 06-Dec-2006

☒ STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

◯ A sole inventor

◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

◯ A joint inventor; all of whom are signing this e-petition.

◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/ joe zheng /
Name	Joe Zheng
Registration Number	39450

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 7/21/2011
Patent No.	: 7,966,738 B2
Serial No.	: 11/567,351
Inventor(s)	: Nash et al.
Issue Date	: June 28, 2010
Title	: **LASER GUIDE**
Doc./File No.	: **014881-000818**

Re: Consideration for Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in your request, a petition under C.F.R. 1.182 is required to correct the alleged error in the inventor(s) address, since inventors' addresses are printed in accordance with the *"Residence Address in assigned patents or P.O. Box Address for not assigned patents"* on the Declaration. The error is the result of applicants' failure to comply with requirements that the complete and correct address be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

Any petition under 37 CFR 1.182 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: (703) 308-6916
Attn.: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

Newell Operating Company
c/o Moore & Van Allen, PLLC
P.O. Box 13706
Research Triangle Pk NC 27709

ECW

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MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

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DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Ronghai QU, et *al.*	:	
Application No. 11/567,592	:	DECISION ON PETITION
Filed: December 6, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **205295 (07783-0266)**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 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 August 12, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 12, 2010. Accordingly, the date of abandonment of this application is August 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 , the publication fee of $300, and corrected formal drawings , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.
The drawings have been made of record in the application filed.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Office of Data Management for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

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DEC 07 2010

OFFICE OF PETITIONS

Merchant & Gould - Chevron
PO Box 2903
Minneapolis MN 55402

In re Patent No. 7,793,724	:	
Issued: September 14, 2010	:	
Application No. 11/567,637	:	DECISION ON PETITION
Filed: December 6, 2006	:	
Attorney Docket No. T-6681	:	

This is a decision on the petition, filed, November 17, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Petitioner states that the correct assignee's name includes "Technip USA, Inc." and that the second assignee's name was not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter).

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Technip USA, Inc." is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate to issue a certificate of correction.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Daniel et al. :
Application No. 11/567,649 :
In re Patent No. 7,793,726 : DECISION ON PETITION
Filing Date: December 6, 2006 : PURSUANT TO 37 C.F.R.
Issue Date: September 14, 2010 : § 3.81(B)
Attorney Docket Number: T-6682 :
Title: MARINE RISER SYSTEM :

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed November 17, 2010, 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. On November 17, 2010, Petitioner submitted a "Certificate of Correction" for this purpose, which requests the addition of assignee "Technip USA, Inc., Houston, TX (US)."

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 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 set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that two assignments were received in the Office on May 16, 2007 and July 8, 2008, each listing Technip USA, Inc. of Houston, Texas as an assignee.

Payment of the required $100 certificate of correction fee and the $130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, adding "Technip USA, Inc., Houston, TX (US)" as an assignee.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. 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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DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Daniel et al. :
Application No. 11/567,658 :
In re Patent No. 7,798,233 : DECISION ON PETITION
Filing Date: December 6, 2006 : PURSUANT TO 37 C.F.R.
Issue Date: September 21, 2010 : § 3.81(B)
Attorney Docket Number: T-6683A :
Title: OVERPRESSURE PROTECTION :
DEVICE

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed November 17, 2010, 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. On November 17, 2010, Petitioner submitted a "Certificate of Correction" for this purpose, which requests the addition of assignee "Technip USA, Inc., Houston, TX (US)."

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 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 set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on May 16, 2007, listing Technip USA, Inc. of Houston, Texas as an assignee.

Payment of the required $100 certificate of correction fee and the $130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, adding "Technip USA, Inc., Houston, TX (US)" as an assignee.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. 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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Minneapolis MN 55402

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,793,725 :
Issued: September 14, 2010 :
Application No. 11/567,663 : DECISION ON PETITION
Filed: December 6, 2006 :
Attorney Docket No. T-6683B :

This is a decision on the petition, filed, November 17, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Petitioner states that the correct assignee's name includes "Technip U.S.A., Inc." and that an incomplete assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter).

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Chevron U.S.A. Inc." and "Technip U.S.A., Inc." are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate to issue a certificate of correction.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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GE Global Patent Operation
2 Corporate Drive, Suite 648
Shelton CT 06484

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OCT 18 2011
OFFICE OF PETITIONS

In re Application of :
Bunker et al. :
Application No. 11/567,796 : DECISION ON PETITION
Filed: December 7, 2006 :
Attorney Docket No. 215094_1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed August 30, 2010. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 1, 2010. A Notice of Abandonment was mailed on March 18, 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) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3741 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Attorney Advisor
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : April 12,2011

In re Application of :

John Opie

Application No : 11567851

Filed: 07-Dec-2006

Attorney Docket No : 11637.034

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed April 12,2011

The request is **APPROVED**

The request was signed by Rodney J. Fuller (registration no. 46714) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Phil Mitchell
Name2	Scottsdale Medical Devices
Address 1	7300 E. Acoma Drive
Address 2	
City	Scottsdale
State	AZ
Postal Code	85260
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	11567851
Filing Date	07-Dec-2006
First Named Inventor	John Opie
Art Unit	3763
Examiner Name	LAURA BOUCHELLE
Attorney Docket Number	11637.034
Title	VASCULAR SHEATH

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

10.40(c)(1)(v)

10.40(b)(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Phil Mitchell Scottsdale Medical Devices
Address	7300 E. Acoma Drive
City	Scottsdale
State	AZ
Postal Code	85260

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Rodney J. Fuller/
Name	Rodney J. Fuller
Registration Number	46714

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3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, AZ 85012

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MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
OPIE	:	
Application No. 11/567,851	:	DECISION ON PETITION
Filed: December 7, 2006	:	TO WITHDRAW
Attorney Docket No. 11637.034	:	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 7, 2011.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Rodney J. Fuller and the attorneys associated with Customer No. 27887, has been withdrawn in view of the Auto Decision dated April 12, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) filed March 7, 2011, is moot.

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: PHIL MITCHELL,
SCOTTSDALE MEDICAL DEVICES
7300 E. ACOMA DRIVE
SCOTTSDALE AZ 85260

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1652 48th Street
Brooklyn NY 11204

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MAY 19 2011
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In re Application of	:	
Tracey Bernath	:	
Application No. 11/567,900	:	DECISION ON PETITION
Filed: December 7, 2006	:	
Attorney Docket No. 332.002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 28, 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 29, 2009. A Notice of Abandonment was mailed on December 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) 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 2617 for appropriate action by the Examiner in the normal course of business on the reply received April 11, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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UT-Battelle, LLC
Office of Intellectual Property
One Bethal Valley Road
4500N, MS-6258
Oak Ridge TN 37831

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OFFICE OF PETITIONS

In re Application of :
Roman I. PANKIW et al. :
Application No. 11/567,944 : ON PETITION
Filed: July 31, 2007 :
Attorney Docket No. 270262.105NP :

This is a decision on the renewed petition filed March 29, 2010, requesting reconsideration of the petition for grant of the filing date of December 7, 2006 for the above-identified application.

BACKGROUND

On December 7, 2006, an attempt at filing the instant application was made, the submission consisting of a two-page fee worksheet and an authorization to charge deposit account 50-3325 for the utility filing, search, and examination fees in the instant application. On July 31, 2007, petitioners filed a petition and petition fee, as well as arguments in favor of an earlier filing date of December 7, 2006 and supporting documentation including 28 pages of specification, a one-page abstract of the disclosure, and nine pages of drawing figures. Petitioners asserted that despite repeated attempts to obtain a filing receipt for the instant application, one could not be generated because the application could not be located.

A decision dismissing that petition was mailed January 28, 2010 because petitioners were unable to establish within the meaning of 37 C.F.R. 1.53(b) and 35 U.S.C. 111(a)(4) that papers comprising an application, namely a specification including at least one claim and drawings, if required for understanding of the invention, were received in the U.S. Patent and Trademark Office on December 7, 2006.

Petitioners now come forward with additional arguments in favor of according a filing date of December 7, 2006 to the instant application.

STATUTE, REGULATION & POLICY

35 U.S.C. 2(b)(2) states, in part:

[(b) SPECIFIC POWERS – The Office -]

(2) may establish regulations, not inconsistent with law, which —
(A) shall govern the conduct of proceedings in the Office;
(B) shall be made in accordance with section 553 of title 5;
(C) shall facilitate and expedite the processing of patent applications, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;

35 U.S.C. 111(a)(4) states, in part:

"The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office."

35 U.S.C. 119(e)(1) states, in pertinent part:

(e)(1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application.

35 U.S.C. 363 states, in part:

> An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

35 U.S.C. 364(b) states:

> (b) An applicant 's failure to act within prescribed time limits in connection with requirements pertaining to a pending international application may be excused upon a showing satisfactory to the Director of unavoidable delay, to the extent not precluded by the treaty and the Regulations, and provided the conditions imposed by the treaty and the Regulations regarding the excuse of such failure to act are complied with.

37 C.F.R. 1.53 states, in pertinent part:

> (b) Application filing requirements - Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to §1.71 and at least one claim pursuant to § 1.75, and any drawing required by §1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and §1.78(a).

37 C.F.R. 1.57(a) states, in pertinent part:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under §1.55 for priority of a prior-filed foreign application, or a claim under §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under §1.55 or §1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

PCT Article 11(1) states, in pertinent part:

> (1) The receiving Office shall accord as the international filing date the date of receipt of the international application, provided that Office has found that, at the time of

receipt:
(i) the applicant does not obviously lack, for reasons of residence or nationality, the right to file an international application with the receiving Office,
(ii) the international application is in the prescribed language,
(iii) the international application contains at least the following elements:
(a) an indication that it is intended as an international application,
(b) the designation of at least one Contracting State,
(c) the name of the applicant, as prescribed,
(d) a part which on the face of it appears to be a description,
(e) a part which on the face of it appears to be a claim or claims.

The Legal Framework for EFS-Web in effect on December 7, 2006 states, in pertinent part:

"What is the date of receipt of an application received under the EFS-Web?
35 USC 111(a)(4) states in part (emphasis added):

> The filing date of an application shall be the date on which the specification and any required drawing are **received in the Patent and Trademark Office**.

Thus, the filing date of an application is the date of receipt of the application in the USPTO. Further, the USPTO is located in the Eastern Standard Time zone. Accordingly, the date of filing of an application officially submitted through EFS-Web will be the date in the Eastern Standard Time zone at the time of submission. As such, the submission's "date of receipt", as shown on the Acknowledgement Receipt, is the Eastern Standard Time date that the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen. This date is controlling for filing date purposes of your newly filed application. There is no "certificate of transmission" practice for new application e-filings (37 CFR 1.8).

DISCUSSION

Petitioners continue to advance arguments in favor of according a filing date of December 7, 2006 to the instant application. However, 35 USC 111(a)(4) is unambiguous in its reading as it applies to according a filing date to an application.

Although the minimum requirements of the statue to accord a filing date to the instant application were not met until July 31, 2007, petitioners now argue that an earlier filing date should be accorded to the instant application because "the USPTO was in possession of petitioner's specification (including claims) and any required drawings on December 7, 2006 by virtue of Petitioner's U.S. provisional applications, U.S. 60/748,239 (US '239)(Exhibit C) filed on December 7, 2005 and U.S. 60/789, 905 (US '905) filed on April 6, 2006 (Exhibit D)." See Petition at page 2. This argument is unpersuasive. The filing of a provisional application is a separate matter from the filing of a nonprovisional application and is addressed by a different

section of the patent statutes and patents rules. Each application type has its own filing requirements that must be met.

At best, it appears that petitioners are attempting to avail themselves of the procedure under 37 C.F.R. 1.57(a). If all or a portion of a specification or drawings is inadvertently omitted but the application contains a claim under §1.55 for priority of a prior-filed foreign application, or a claim under §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under §1.55 or §1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s). However, as the instant application did not include a specification or Application Data Sheet (ADS) upon filing on December 7, 2006, a priority claim was not present. Therefore, relief under 37 C.F.R. 1.57(a) may not be obtained.

Petitioners further argue that petitioners will suffer inequitable loss of patent rights due to purported USPTO error. In particular, petitioners argue that the USPTO did not provide specific notice to petitioners that the electronically filed application of December 7, 2006 was defective or incomplete, and/or that the USPTO failed to maintain its computer system for a reasonable user to adequately operate and to understand whether an application has been electronically filed correctly and completely. As previously stated in the decision dismissing petition, mailed January 28, 2010, petitioners were, in fact, promptly notified of the documents received by the USPTO via Electronic Acknowledgement receipt generated at the time the documents were filed. Petitioners' apparent failure to review this document does not shift the burden for failure to secure the desired filing date to the USPTO. Petitioners' attention is once again directed to the electronic acknowledgement receipt generated moments after filing at 3:02:59 pm on 07-DEC-2006. In the "Application Details" section, filing of only a two-page file titled "fee-info.pdf" is evidenced. The electronic acknowledgement receipt includes the following language warning applicants of the effect of the Receipt and a clear indication of what was received in this submission:

> "This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.
>
> New Applications Under 35 U.S.C. 111
>
> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application."

If petitioners' had reviewed the acknowledgement receipt after filing, petitioners would have recognized which documents were filed with the submission on December 7, 2006 and supplied

the missing documents as follow-on papers in the instant electronic record on even date or re-filed the instant application by Express Mail Post Office to Addressee service as a safeguard against losing the desired filing date. Petitioners' attempts to shift the burden to the USPTO for petitioners' loss of patent rights is inappropriate as the responsibility for meeting the filing deadlines set forth in 35 U.S.C. 119(e) resides wholly with petitioners.

As provided in 35 U.S.C. 2 (b)(2), the USPTO may establish regulations not inconsistent with law to, *inter alia*, to facilitate and expedite the processing of patent applications, Therefore, the USPTO is without authority to waive the laws enacted by the Congress and therefore the requirements of the statue(s) in its business of according filing dates to patent applications.

Petitioners further argue that the USPTO failed to correct and provide notice of system errors (presumably relating to new application filings in EFS-Web). Petitioners present announcements of new software releases that petitioners allege "fix" known problems that existed on December 7, 2006 however petitioners further argue that there are no contemporaneous public notices by the USPTO cautioning users of the problems prompting system upgrades. Petitioners point to notices released on July 8 and October 31, 2007 which guidance regarding system upgrades that permit users to view the status of documents as they are uploaded and that give users more helpful warning messages when attaching documents (for upload). Petitioners assert that the existing warning messages were inadequate for the users to know whether or not their attachments were uploaded.

Again, petitioners' arguments are unpersuasive. It is first noted that enhancements and system upgrades to EFS-Web are not evidence of a system that is broken or fails to function. Rather, such enhancements support the USTPO 2007-2012 Strategic Plan, and at least one of the USPTO's goals, enhanced automation. Petitioners' arguments that the existing warning messages were inadequate for the users to know whether or not their attachments were uploaded are speculative and similarly unpersuasive. Again, it is noted that EFS-Web was functioning properly at the time of the attempted submission of the instant application. At that time, petitioners were in receipt of the most compelling piece of evidence as to what documents were received by the USPTO on December 7, 2006 – the Electronic Acknowledgement Receipt – yet petitioners apparently failed to review or appreciate the content thereof. Having been issued this receipt, petitioners cannot be heard to complain that they were not made aware of which documents were received by the Office on December 7, 2006.

Petitioners further argue that denial of the instant petition to accord the earlier filing date of December 7, 2006 is against public policy. Petitioners argue that the grant of the instant petition would preserve the patent rights of the petitioner and certain rights of the DOE. Petitioners speculate that, *inter alia*, the commercial value of the invention without protection under the Patent Laws may not be sufficient for petitioner to continue development and commercialization of the invention, thereby depriving the general public of the advanced technology at the soonest possible moment or possibly not at all (Petition, at paragraph C, pg. 10). As noted above, the USPTO is without the authority to waive the laws enacted by the Congress. Therefore, uniform application of the law, as here, is well within the interest of Public Policy.

Petitioners additionally argue that they will suffer damage or injury if the instant petition is not granted. Petitioners point to two reports published by the DOE in April and June of 2006, respectively. Petitioners speculate that the failure to accord the desired filing date to the instant application causes petitioners to fail to meet the statutory requirements of 35 U.S.C. 102(b) by filing an application more than one year from the public disclosure of petitioners' invention. As has been repeatedly stated in this decision, 35 USC 111(a)(4) is unambiguous and the requirements thereof cannot be waived. It is unfortunate that petitioners' did not complete the filing requirements of this application prior to expiry of the provisional application to which petitioners desired to claim priority within the almost six remaining months following publication of the last report by DOE.

Last, petitioners argue that there is an inequitable loss of patent rights due to a purported lack of harmony between U.S. patent law and the Patent Cooperation Treaty (PCT). Petitioners argue that abandoned international applications under the PCT can be revived, but that domestic provisional applications under 35 U.S.C. 111(b)(5) cannot be revived. Petitioners speculate that most applicants in filings accepted under 35 U.S.C. 371 are foreign applicants and therefore, it is against public policy to treat foreign entities more favorably than U.S. entities. Assuming for the sake of argument that there is some unfairness in the patent statutes, petitioners' argument is with the U.S. Congress since the USPTO does not have the authority to waive a requirement of the statues. However, upon reviewing petitioners' argument there does not appear to be a lack of harmony in the law.

First, 35 U.S.C. 363 specifically provides "An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title." The International Application and a filing under 35 U.S.C. 371 therefore have the <u>same</u> filing date. The mere submission of filing fees, as were filed in the instant application on December 7, 2006, would have been insufficient to, at the least, meet the requirements of PCT Article 11(1) for obtaining a filing date in an international application since under Article 11(1), an applicant would have to provide a specification and a claim in order to obtain a filing date. Second, 35 U.S.C. 364(b), specifically provides that "An applicant's failure to act within prescribed time limits in connection with requirements pertaining to a pending international application may be excused upon a showing satisfactory to the Director of unavoidable delay, to the extent not precluded by the treaty and the Regulations, and provided the conditions imposed by the treaty and the Regulations regarding the excuse of such failure to act are complied with." However, as provided by 35 U.S.C. 111(b)(5), no request to treat application 60/748,239 as a filing under 35 USC 111(a) was made during the 12-month pendency of the provisional application. Therefore, according to 35 U.S.C. 119(e), as an application for patent under section 111(a) or section 363 of this title was not filed within 12 months after the date on which the provisional application was filed, the instant application shall not be entitled to the benefit of the earlier-filed provisional application.

CONCLUSION

Accordingly, the petition is **DENIED**.

This decision is a final agency action within the meaning of 5 USC 704 for purposes of seeking judicial review.

At the writing of this decision on petition, the instant application is abandoned by operation of law for failure to prosecute[1]. Thus, no further action will be undertaken in this application and the application remains in abandoned status.

Any inquiries related to this decision should be directed to B. Dayoan at (571) 272-3209.

Anthony Knight
Director
Office of Petitions

cc: Meyer, Unkovic & Scott LLP
1300 Oliver Building
535 Smithfield Street
Pittsburgh PA 15222

[1] 35 U.S.C. 133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

MAILED

OCT 27 2010

OFFICE OF PETITIONS

In re Application of Makoto Sato Application No. 11/568,020 Filed: October 17, 2006 Attorney Docket No. 03500.109725	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed 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 September 24, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2624 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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PCT LEGAL ADMINISTRATION

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Uhl et al. :
Application No. 11/568,056 :
PCT No.: PCT/US2005/013622 :
Int. Filing Date: 21 April 2005 : DECISION
Priority Date: 21 April 2004 :
Atty. Docket No.: 35296.52 :
For: Microseismic Fracture Mapping :
Using Seismic Source Timing :
Measurements For Velocity Calibration :

This is in response to the correspondence filed on 04 June 2009.

DISCUSSION

In a Decision mailed on 05 May 2009, applicants were advised that

> Inspection of the declaration filed on 16 January 2009 reveals that it appears to have been assembled by aggregating separately signed sheets. This is also true of the declaration filed on 18 October 2006. In view of this policy, it would not be appropriate to accept the declaration filed on 16 January 2009.

In response, applicants have filed a declaration which complies with the requirements of 37 CFR 1.497(a) and (b).

DECISION

The declaration filed on 04 June 2009 is **ACCEPTED**.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **04 June 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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FEB 01 2011
OFFICE OF PETITIONS

Patent No. 7,676,924	:	
Issue Date: November 16, 2010	:	
Application No. 11/568,071	:	ON PETITION
Filed: October 19, 2006	:	
Attorney Docket No. 15193-0007	:	

This is a decision on the petition filed August 18, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

A fee in the amount of $100 and $130 were necessary to pay the certificate of correction and petition fee. Therefore no refund is due to the inventor(s).

The applicant is requesting that the assignee name be deleted from the front page of the patent.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of
Paul Michael Clements
Application No. 11/568,091
Filed: October 19, 2006
Attorney Docket No. 348-126

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 13, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to King & Schickli, PLLC has been revoked by the applicant of the patent application on August 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 undersigned at 571-272-1642. All other inquiries concerning this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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MAILED
JAN 28 2011
OFFICE OF PETITIONS

THOMAS R. VIGIL LAW OFFICES
319 BLUFF COURT
BARRINGTON, IL 60010

In re Application of	:	
Matthijs Alfons Rietveld	:	
Application No. 11/568,184	:	ON PETITION
Filed: October 20, 2006	:	
Attorney Docket No. 8329-98456	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 4, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed January 21, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 22, 2010. A Notice of Abandonment was mailed December 10, 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); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition lacks item (3) the statement of unintentional delay. Petitioner must submit the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

Accordingly, this application cannot be revived until the required statement of unintentional delay is submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Any questions concerning this matter may be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS R. VIGIL LAW OFFICES
319 BLUFF COURT
BARRINGTON, IL 60010

MAILED
APR 15 2011
OFFICE OF PETITIONS

In re Application of :
Matthijs Alfons Rietveld :
Application No. 11/568,184 : ON PETITION
Filed: October 20, 2006 :
Attorney Docket No. 8329-98456 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to acceptably reply in a timely manner to the Notice of Non-Compliant Amendment, mailed January 21, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 22, 2010. A Notice of Abandonment was mailed December 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

Any questions concerning this matter may be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 3611 for appropriate action by the Examiner in the normal course of business on the reply received January 4, 2011.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

United States Patent and Trademark Office

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DEC 13 2010

PCT LEGAL ADMINISTRATION

FURR LAW FIRM
2622 DEBOLT ROAD
UTICA OH 43080

In re Application of	:	
Ramos-Valcarce Morcillo et al.	:	
Application No.: 11/568,186	:	DECISION
PCT No.: PCT/ES2005/000207	:	
Int. Filing Date: 20 April 2005	:	ON
Earliest Priority Date: 21 April 2004	:	
Attorney Docket No.: 075-0260	:	PETITION
For: Self Draining Mop System	:	

This is in response to the petition under 37 CFR 1.182 and the renewed petition to revive under 37 CFR 1.137(b) filed on 12 October 2010.

DISCUSSION

Petition Under 37 CFR 1.137(b)

In a Decision mailed on 13 July 2010, the renewed petition under 37 CFR 1.137(b) filed on 15 October 2009 was dismissed, without prejudice, because

> Regarding requirement (1),... petitioner has provided a new English translation of the claims, as well as an executed declaration. Inspection of the declaration reveals that it nominates "Miguel Angel Ramos Valcarce-Morcillo," as opposed to "RAMOS-VALCARCE, MORCILLO, Miguel Angel" named in the published international application. Petitioner has not provided an adequate explanation of this discrepancy. *See* MPEP 605.04(b). As such, it would not be appropriate to accept the declaration at this time. Accordingly, the "required reply" requirement has not been satisfied.

In response, petitioner has provided a petition under 37 CFR 1.182 which is not being granted at this time, as discussed below. For this reason, the "required reply" requirement of 37 CFR 1.137(b) is not regarded as having been satisfied at this time.

Petition Under 37 CFR 1.182

As noted in the Decision mailed on 13 July 2010, inspection of the declaration reveals that it nominates "Miguel Angel Ramos Valcarce-Morcillo," as opposed to "RAMOS-VALCARCE, MORCILLO, Miguel Angel" named in the published international application. Applicants have filed a petition under 37 CFR 1.182 for acceptance of the inventor's name. The petition is accompanied by a "Section 182 Statement from the Inventor," stating that the "name difference between the PCT published international application and the Declaration was a mistype and it is the same person for both. There was no intent to mislead or deceive based on this mis-typing." The statement is signed by Miguel Angel RAMOS-VALCARCE MORCILLO; this ordering of the names is the same as appears on the declaration filed on 15 October 2009. Though the prder of the names on this "Statement..." matches the order appearing on the declaration, the position of the hyphen is different; neither petitioner nor the

"Statement..." itself addresses this discrepancy. Counsel should clarify whether this discrepancy in the placement of the hyphen is significant, or whether it merely represents, e.g., a mere typographical error.

It is also noted that the petition fee under 37 CFR 1.182 has not been paid.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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PCT LEGAL ADMINISTRATION

FURR LAW FIRM
2622 DEBOLT ROAD
UTICA OH 43080

In re Application of
Ramos-Valcarce Morcillo et al.
Application No.: 11/568,186
PCT No.: PCT/ES2005/000207
Int. Filing Date: 20 April 2005
Earliest Priority Date: 21 April 2004
Attorney Docket No.: 075-0260
For: Self Draining Mop System

DECISION ON PETITION

This is in response to the renewed petition under 37 CFR 1.182 and the renewed petition to revive under 37 CFR 1.137(b) filed on 13 February 2011.

DISCUSSION

Petition Under 37 CFR 1.137(b)

In a Decision mailed on 13 December 2010, the renewed petition under 37 CFR 1.137(b) filed on 12 October 2010 was dismissed, without prejudice, because requirement (1) had not been satisfied. In view of the fact that the petition under 37 CFR 1.182 is now grantable (as discussed *infra*), it would now be appropriate to deem requirement (1) to have been satisfied.

Petition Under 37 CFR 1.182

In the Decision mailed on 13 December 2010, the declaration filed on 15 October 2009 was not accepted (and the petition under 37 CFR 1.182 filed on 12 October 2010 was dismissed, without prejudice) because

> Though the prder of the names on this "Statement..." matches the order appearing on the declaration, the position of the hyphen is different; [but] neither petitioner nor the "Statement..." itself addresses this discrepancy. Counsel should clarify whether this discrepancy in the placement of the hyphen is significant, or whether it merely represents, e.g., a mere typographical error.
>
> It is also noted that the petition fee under 37 CFR 1.182 has not been paid.

In response, petitioner states (in part) that

> The Petitioner's Office asked in its December 13, 2010 whether the placement of the hyphen in Mr. Morcillo is significant, or whether it is merely a mere typographical error. Counsel is clarifying that it merely represents a mere typographical error per the request of the Examiner. Applicant also has paid the petition fee under 37 CFR 1.182"

Petitioner's statement establishes that, within the policy explained at MPEP 605.04(b), the remaining name discrepancy constitutes a mere typographical error. Taken with the evidence previously of record, it now would be appropriate to accept the

declaration filed on 15 October 2009 for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being returned to the Office of Patent Application Processing for further processing, including updating the PALM record to show the status of the application as pending (not abandoned). Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **15 October 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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MARSHALL, GERSTEIN
& BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357+

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OFFICE OF PETITIONS

In re Patent No.7,965,850	:	
Issue Date: 21 June, 2011	:	
Application No. 11/568,300	:	DECISION
Filed/Deposited: 25 October, 2006	:	
Attorney Docket No.: 19036/42464	:	

This is a decision on the petition filed on 5 October, 2011, requesting issuance of duplicate Letters Patent for the above-identified patent/application and considered pursuant to 37 C.F.R. §1.182.[1]

NOTE:

It appears that Petitioner has failed to set forth in the caption of the petition both the patent number (with date of issue) and the application number (with date of filing).

The need for this specification exists because it is not uncommon for persons communicating with the Office after Issue to submit papers with incorrect patent numbers. (*See, e.g.,* the regulations at 37 C.F.R. §1.366.)

The Office respectfully requests Petitioner's cooperation in this matter in any future communications to the Office.

It appears that Petitioner has failed to set forth in his petition the reason for the request—e.g., the letters patent were lost or destroyed following their receipt from the Office.

---

[1] The regulations at 37 C.F.R. §1.182 provide:
§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

The Office respectfully requests Petitioner's cooperation in this matter in any future communications to the Office.

In order to expedite this matter, the Office construed the petition of 5 October, 2011, to state that Petitioner made inquiry into the matter and concluded upon his inquiry that the letters patent were lost/destroyed following their initial receipt from the Office. If Petitioner has not made such an inquiry, Petitioner must do so; should Petitioner's inquiry reveal that the construal of this matter was inaccurate, Petitioner must so Notice the Office.

The petition is **GRANTED.**

BACKGROUND

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

The Office construed Petitioner to state that the letters patent were lost/destroyed following their original receipt from the Office.

Petitioner submitted the fee required pursuant to the Rule.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ollie Person- Office of Data Management FAX: 571-270-9764, or Kimberly Terrell - Office data Management FAX: 571-270-9958

Application No. 11/568,300

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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)/inaction.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

CC:
Ollie Person- Office of Data Management FAX: 571-270-9764
Kimberly Terrell - Office data Management FAX: 571-270-9958

---

[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.

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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of
Rajendra Kumar
Application No. 11/568,342
Filed: October 26, 2006
Attorney Docket No. 1386010US1AN

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 24, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2876 processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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MCKEON MEUNIER CARLIN & CURFMAN LLC
817 W. PEACHTREE STREET, SUITE 900
ATLANTA GA 30308

MAILED
DEC 21 2010
OFFICE OF PETITIONS

In re Patent No. 7,776,916	: DECISION ON REQUEST
Freeman et al	: FOR
Issue Date: 08/17/2010	: RECONSIDERATION OF
Application Number: 11/568,377	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 10/26/2006	:
Atty Docket No.	:
10030-006US1	:

This is a decision on the petition filed on October 13, 2010, under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred (700) 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 ninety-six (696) days.

Petitioners assert entitlement to four (4) additional days of patent term adjustment pursuant to 37 CFR 1.702(b).

The "B" delay period is 291 days, not 295 days as asserted by patentees. 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 national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. See § 1.703(b). Further, the calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of October 30, 2006, not October 28, 2006. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, October 30, 2006. Thus, "B" delay is 291 days, counting the number of days beginning on October 31, 2009, the day after the date three years after the national stage commenced, and ending on August 17, 2010, the date of issuance. See 1.703(b).

Accordingly, no change will be made to the patent term adjustment of 696 (757 days Office delay + 291 days three years delay – 61 days of applicant delay) days indicated on the face of the issued patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Application of
Daniel Dietzel, et al.
Application No. 11/568,446
Filed: February 13, 2007
Attorney Docket No. 06821/Z07928Q

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 30, 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)(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 January 31, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3724 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM J BUNDREN
THE LAW OFFICE OF WILLIAM J BUNDREN
734 LaRUE ROAD
MILLERVILLE, MD 21108

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Application of :
Fahkreddin JAMALI, et *al.* :
Application No. 11/568,551 :
Filed: June 30, 2008 :
Attorney Docket No. **EQU.11US** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 23, 2011.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant.

Inquires concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-1600.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11568551
Filing Date	30-Jun-2008
First Named Inventor	Fahkreddin Jamali
Art Unit	1629
Examiner Name	BONG-SOOK BAEK
Attorney Docket Number	EQU.11US
Title	Nsaid Compositions

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 24286

The reason(s) for this request are those described in 37 CFR:

10.40(c)(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	Fahkreddin Jamali
Address	3126 Dentistry/Pharmacy Centre University of Alberta
City	Edmonton
State	
Postal Code	T6G 2N8
Country	CA

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/wjbundren/
Name	William J. Bundren
Registration Number	31712

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : May 18,2011

In re Application of :

Fahkreddin Jamali

Application No : 11568551

Filed : 30-Jun-2008

Attorney Docket No : EQU.11US

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 18,2011

The request is **APPROVED.**

The request was signed by William J. Bundren (registration no. 31712) on behalf of all attorneys/agents associated with Customer Number 24286 . All attorneys/agents associated with Cusotmer Number 24286 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	Fahkreddin
Name2	Jamali
Address 1	3126 Dentistry/Pharmacy Centre
Address 2	University of Alberta
City	Edmonton
State	
Postal Code	T6G 2N8
Country	CA

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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MAR 3 1 2011

PCT LEGAL ADMINISTRATION

INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE CA 95113

In re Application of LIM et al.
Application No.: 11/568,613
Filing Date: 02 November 2006
Attorney Docket No.: SAEUM.KTF.PT1
For: METHOD AND APPARATUS FOR DISPLAYING MESSAGES.....

: DECISION ON PETITION TO
: CORRECT APPLICATION TYPE

This decision is issued in response to applicant's "Request for Correction of Application Type" in the above referenced application. The petition was filed on 24 January 2011 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 April 2005, applicant filed international application PCT/KR05/01245. The international application claimed a priority date of 03 May 2004 and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 03 November 2006.

On 02 November 2006, applicant initiated the present U.S. application by filing a transmittal letter concerning a request for filing a continuation or division of an international application (Form PTO/SB13//PCT) , accompanied by, among other materials, a specification, claims, and application data sheet. The Application Data Sheet indicated that the application was intended to be a nonprovisional utility application, not the national stage of PCT/KR05/01245. The Form PTO/SB/13/PCT indicated that applicant specifically requested "filing a continuation application under 37 CFR 1.53(b) of pending prior international application Number PCT/KR2005/001245". The Electronic Acknowledgement Receipt indicated that the application type was a filing under "U.S. National Stage under 35 USC 371". Applicant provided the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 05 May 2009, the USPTO mailed a "Notification of Missing Requirements" indicating, *inter alia*, that additional claims fees were required. On 27 October 2009, a Notification of Acceptance was mailed to applicant indicating that all the requirements of 35 U.S.C. 371(c) had been satisfied.

On 24 January 2011, applicant filed the instant petition requesting that the present application be treated as a U.S. application filed under 35 U.S.C. 111(a) as a continuation of international application PCT/KR05/01245.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

As noted above, applicant's filing included a Form PTO/SB/13/PCT "Request for Filing a Continuation or Division of an International Application" under 37 CFR 1.53(b). Applicant indicated that the application was a filing as a "U.S. National Stage under 35 USC 371" on the Electronic Acknowledgement Receipt. The inclusion of these conflicting indications of applicant's intent in the materials filed on 02 November 2006 constitutes "conflicting instructions" which, pursuant to the MPEP, requires that the application be treated under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 02 November 2006 should be treated as a filing under 35 U.S.C. 111(a).

Based on the above, the application papers filed 02 November 2006 will be properly processed under 35 U.S.C. 111(a). The Notification of Missing Requirements mailed on 05 May 2009 and Notification of Acceptance mailed on 27 October 2009 will be VACATED.

CONCLUSION

The petition to accept the application papers filed on 02 November 2006 under 35 U.S.C. 111(a) is **GRANTED**.

The Notification of Missing Requirements mailed on 05 May 2009 and Notification of Acceptance mailed on 27 October 2009 are **VACATED**.

The application will be forwarded to Office of Patent Application Processing (OPAP) for further processing in accord with this decision and to correct the USPTO records to indicate that 11/568,613 is a U.S. application under 35 U.S.C. 111(a).

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-22-11

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/568069 Patent No.: 7731059

CofC mailroom date: 1-7-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Fig.

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

E Yang

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The requested correction is approved

/Amara Abdi/

APPROVED
By Vu Le at 3:45 pm, Jan 12, 2012

SPE _____ **Art Unit** 2624

11-15-11

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-22-11 Paper No.: _____

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/568069 Patent No.: 7734059

CofC mailroom date: 11-7-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Fig.

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

E Yang
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The requested correction is approved

/Amara Abdi/

APPROVED
By Vu La at 3:45 pm, Jan 12, 2012

SPE

2624
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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SCHWEGMANN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Thomas Meury et al.	:	DECISION ON PETITION
Application No. 11/568,674	:	TO WITHDRAW
Filed: April 23, 2007	:	FROM RECORD
Attorney Docket No. **2579.040US1**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed November 23, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number has been revoked by the assignee of the patent application on October 28, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: MORGAN, LEWIS, & BOCKIUS LLP - SYNTHES
1701 Market Street
Philadelphia PA 19103

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 28, 2010

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/568692 Patent No.: 7825087

CofC mailroom date: 12-15-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Carla Tsay SPE, AU 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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Micheal P. Morris
Boehringer Ingelheim USA Corporation
900 Ridgebury Road
Ridgefield CT 06877-0368

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Application of
Eisert et al.
Application No 11/568,730
Filed: April 11, 2008
Attorney Docket No. 01-1713

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 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 March 24, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). An improper RCE without the submission requirement was submitted on September 23, 2011. 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 September 25, 2011. 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) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860.00; 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 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. Bernstein 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. Bernstein 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. Bernstein, 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) 272-3215.

This application is being referred to Technology Center AU 1623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Peter I. Bernstein
400 Garden City Plaza-Suite 300
Garden City, NY 11530

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED
MAR 25 2011
OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT @ BERGHOFF LLP
300 SOUTH WACKER DRIVE
SUITE 3100
CHICAGO IL 60606

In re Patent No. 7,846,959	: DECISION ON REQUEST
Anand, et al.	: FOR
Issue Date: December 7, 2010	: RECONSIDERATION OF
Application No. 11/568,789	: PATENT TERM ADJUSTMENT
Filed: September 4, 2007	: and
Atty Docket No.**05-904-A5**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 4, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred and eighty (280) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred and eighty (280) days is **GRANTED.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office is in receipt of the $200. 00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred and eighty (280) 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 : 7,846,959 B2

DATED : Dec. 7, 2010

INVENTOR(S) : Anand 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 (276) days

Delete the phrase "by 276 days" and insert – by 280 days--

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	11568793
Filing Date	07-Nov-2006
First Named Inventor	Danilo Molteni
Art Unit	3653
Examiner Name	KALYANAVENKA KUMAR
Attorney Docket Number	1029.1039
Title	MAGNETIC SEPARATOR FOR FERROMAGNETIC MATERIALS WITH CONTROLLED-SLIP ROTATING ROLLER AND RELEVANT OPERATING METHODS

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	/Michael N. Mercanti/
Name	Michael N. Mercanti
Registration Number	33966

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 3,2011

In re Application of :

Danilo Molteni

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11568793

Filed : 07-Nov-2006

Attorney Docket No : 1029.1039

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 3,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 3653 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of
Danilo Molteni
Application No. 11/568,793
Filed: November 7, 2006
Attorney Docket No.: 1029.1039

ON PETITION

This is a decision in response to the petition, filed September 14, 2011, in the above-identified application, requesting withdrawal of the Notice of Abandonment ,or withdrawal of the holding of abandonment under 37 CFR 1.181 or revival under 37 CFR 1.137(b).

The petition is not signed by a patent practitioner of record in the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Peter J. Phillips appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The request to withdraw the Notice of Abandonment is **DISMISSED**.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED**.

A review of the record discloses that the application became abandoned for failure to pay the issue fee and publication fee on or before August 29, 2011. A Notice of Abandonment was mailed on September 13, 2011. In response, on September 14, 2011, the present petitions were filed.

Petitioner argues that the abandonment should be withdrawn. Petitioner explains that "[s]ubsequent to the issue fee and publication fee payment, the application was withdrawn from issue...A second Notice of Allowance issued on May 27, 2011, indicating that the previously paid issue and publication fees of $755 had been credited, and that no issue and publication fees were due." Since the issue fee and publication fee were previously paid, petitioner requests that the Notice of Abandonment be withdrawn.

Petitioner's argument is not well taken. The Notice of Allowance and Fee(s) Due of May 27, 2011 set forth the period for reply and the manner in which to pay a previously paid issue fee, stating

> "THE ISSUE FEE AND PBULICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151."**THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT** FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. **IF AN ISSUE FEE HAS PEVISOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**" Emphasis added

Clearly, the Notice of Allowance did not operate to advise applicant that the previously paid $755 issue fee had been credited. Since petitioner failed to timely return Part B of the form, the previously paid issue fee was not reapplied toward the issue fee due and the application became abandoned by operation of law on August 30, 2011. Consequently, the abandonment will not be withdrawn. A decision on the petition to revive under 37 CFR 1.137(b) follows.

The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) reply in the form of payment of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquiries 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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
AUG 2 0 2010
OFFICE OF PETITIONS

In re Patent No. 7,615,639	: DECISION ON REQUEST
Kesteleyn et al	: FOR
Issue Date: 11/10/2009	: RECONSIDERATION OF
Application Number: 11/568,845	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/08/2006	:
Atty Docket No.	:
TIP-0075USPCT	:

This is a decision on the petition filed on May 18, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by fourteen (14) 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 twelve (12) days.

Petitioners assert entitlement to two (2) additional days of patent term adjustment pursuant to 37 CFR 1.702(b).

The calculation of delay pursuant to 37 CFR 1.702(b) is based on the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. As applicants did not file an express request under 35 U.S.C. 371(f), the national stage commenced under 35 U.S.C. 371(b) on November 17, 2006, 30 months after the priority date, not on November 8, 2006. On November 10, 2009, less than three years after the national stage commenced, the application issued as U.S. Patent No. 7,615,639. As the patent issued within three years of the date the national stage commenced under 35 U.S.C. 371(b), no adjustment is due under 37 CFR 1.702(b).

Accordingly, no change will be made to the patent term adjustment of 12 (67 days Office delay + 0 days three years delay – 55 days of applicant delay) days indicated on the issued patent.

No fee is due for the subject request for reconsideration.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
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.
11/568,862	01/10/2007	Keiichi Tanaka	P31008	1492

52123 7590 12/09/2010
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
HASAN, SYED Y

ART UNIT	PAPER NUMBER
2484	

NOTIFICATION DATE	DELIVERY MODE
12/09/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.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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DEC 08 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of
TANAKA, KEIICHI, et al.
Application No. 11/568,862
Filed: November 9, 2006
Attorney Docket No. P31008

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 25, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mehrdad Dastouri at 571-272-7418.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mehrdad Dastouri/

Mehrdad Dastouri
Quality Assurance Specialist
Technology Center 2400

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 24 2010

OFFICE OF PETITIONS

COHEN & GRIGSBY, P.C.
625 LIBERTY AVENUE
PITTSBURGH, PA 15222-3152

In re Application of	:	
Youngkun KIM	:	
Application No. 11/568,921	:	DECISION ON PETITION TO
Filed: November 10, 2006	:	WITHDRAW FROM RECORD
Attorney Docket No. **06-165 PCT/US**	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Jonathan C. Parks on behalf of all attorneys of record. All attorneys/agents associated with the Customer Number 30058 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

A Notice of Allowance and Fee(s) Due was mailed June 25, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **MR. YOUNGKUN KIM, CEO**
3K SOFT CO., LTD
413-12 GAMBUK-DONG
HANAM, GYEONGGI-DO 465-819
SOUTH KOREA

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER / SYNTHES
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of	:	
Sylwester Gogolewski	:	
Application No. 11/568,954	:	DECISION ON PETITION
Filed: June 27, 2008	:	TO WITHDRAW
Attorney Docket No. **2579.013US1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 22, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer Number 21186 does not have power of attorney or was ever given power of attorney in the above-identified application. Therefore, the attorney cannot withdraw the Customer Number which was not originally granted by the Power of Attorney filed October 2, 2008. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at
571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sean Liam Kelleher
Kelleher Patent Law
3821 Teachers Lane #8
Orchard Park NY 14127

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of	:	
Carmona et al.	:	DECISION ON PETITION
Application No. 11/569,057	:	
Filed: November 13, 2006	:	
Atty Docket No. IL-007P01	:	

This is in response to the "Statement By Sean Liam Kelleher of Timely Mailing of Response" filed January 5, 2012. This response is being treated as a "no-fee" PETITION TO WITHDRAW HOLDING OF ABANDONMENT.

The petition under 37 CFR 1.181 is **granted**.

The above-identified application became abandoned for failure to reply to the restriction requirement mailed June 17, 2011. This Office action set a one month period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension considered obtained, the above-identified application became abandoned on July 18, 2011. A Notice of Abandonment was mailed on January 3, 2012.

In response, applicants timely filed the instant petition. Petitioner maintains that on October 24, 2011, a response to the restriction requirement along with a four-month extension of time was prepared, put in a (properly addressed) envelope and mailed to the USPTO. In support thereof, petitioner submits a copy of the response as filed, and bearing a certificate of mailing dated October 24, 2011. Further, the petition is made by the attorney who signed the certificate of mailing under § 1.8.

37 CFR 1.8(b) provides that:

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 election as mailed was not received in the Office. On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated October 24, 2011.

Receipt of the extension of time fee resubmitted on instant petition is acknowledged.

Accordingly, the Notice of Abandonment and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3627 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment

and for the examiner to consider the response resubmitted on petition filed January 5, 2012.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTON BOGGS LLP/ JOHNSON & JOHNSON
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,622,582	: DECISION ON REQUEST
Kesteleyn et al	: FOR
Issue Date: 11/24/2009	: RECONSIDERATION OF
Application Number: 11/569,108	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/14/2006	:
Atty Docket No.	:
026038.0306PTUS	:

This is a decision on the petition filed on July 2, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three (3) days, from forty-two (42) days to forty-five (45) 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 forty-two (42) days.

Petitioners assert that a three (3) day period of reduction for applicant delay pursuant to 37 CFR 1.704(b) in filing the issue fee on October 13, 2009, three months and three days after the date of mailing of the notice of allowance, is incorrect and should be removed.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 CFR 1.705(d), any request for reconsideration of the patent term adjustment indicated on the patent must be filed within two (2) months of the date the patent issued.

On November 4, 2009, the Office mailed the revised 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 was 35 days. This determination was based in part on the period of reduction for applicant delay pursuant to 37 CFR 1.704(b) of 3 days for the filing of the issue fee payment on October 13, 2009, three months and 3 days after the mailing of the Notice of Allowance mailed on July 10, 2009. On November 24, 2009, the application issued as U.S. Patent No. 7,622,582. No request for reconsideration under 37 CFR 1.705(d) was filed within two (2) months after the date the patent issued. As the subject request for reconsideration was

not filed until July 2, 2010, which is over two (2) months after the date the patent issued, it is appropriate to dismiss this petition as untimely filed under § 1.705(d).

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Xiaoju Shi
13 Tile Farm Road
Orpington, Kent, BR6 9RY
United Kingdom

MAILED

MAY 09 2011

PCT LEGAL ADMINISTRATION

In re Application of
SHI, Xiaoju
U.S. Application No.: 11/569,125
PCT No.: PCT/GB2005/001976
Int. Filing Date: 19 May 2005
Priority Date: 19 May 2004
Attorney's Docket No.: None
For: P. GINGIVALIS VACCINE

DECISION

This is a decision on the petition to withdraw the holding of abandonment filed 18 March 2011 which is treated under 37 CFR 1.181. No fee is required.

Applicant's petition is **DISMISSED** without prejudice.

Applicant claims that he timely responded to Notification of Defective Response (Form PCT/DO/EO/916) mailed 29 October 2007 requesting additional claim fees of $1,670.00 on 25 November 2007. Applicant included a credit card statement as evidence of this response.

A review of USPTO records show that there is no response filed 25 November 2007 in the subject application. However, a response containing $1,670.00 in fees was filed in another application (U.S. application No. 11/915,386) on that day. This response was filed by Xiaoju Shi for an invention titled P. GINGIVALIS VACCINE. It appears that applicant input the wrong U.S. application number when filing this response using the USPTO EFS-Web system.

Applicant must submit a petition under 37 CFR 1.182 to correct this mistake and transfer the funds to the above-captioned application. A $400.00 petition fee is required.

The above-captioned application remains **ABANDONED**.

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.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JUL 26 2011

PCT LEGAL ADMINISTRATION

Xiaoju Shi
13 Tile Farm Road
Orpington, Kent, BR6 9RY
United Kingdom

In re Application of
SHI, Xiaoju
U.S. Application No.: 11/569,125
PCT No.: PCT/GB2005/001976
Int. Filing Date: 19 May 2005
Priority Date: 19 May 2004
Attorney's Docket No.: None
For: P. GINGIVALIS VACCINE

DECISION

This decision is in response to the papers filed 13 June 2011 and 22 July 2011.

BACKGROUND

On 09 May 2011, a decision dismissing applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 was mailed. Applicant was requested to file a petition under 37 CFR 1.182.

On 13 June 2011, applicant filed a renewed petition to withdraw the holding of abandonment.

On 22 July 2011, applicant filed a petition under 37 CFR 1.182.

DISCUSSION

Renewed Petition to Withdraw the Holding of Abandonment

Applicant states that she attempted to respond to the Form PCT/DO/EO/916 on 25 November 2007 using the USPTO EFS-Web system; however, applicant clicked a "new application option" by mistake and the response was placed in a new U.S. application No. 11/915,386.

As such, the response never reached the subject application, which went abandoned. Applicant argues that the matter should be resolved without charge.

Applicant's request has been considered and **DISMISSED**.

As noted in the prior decision, a petition under 37 CFR 1.182 is required to correct this error and transfer the response and funds to the above-captioned application.

Petition Under 37 CFR 1.182

On 22 July 2011, applicant submitted the required petition fee of $400.00 to correct the mistake made on 25 November 2007. This response is treated under 37 CFR 1.182.

As previously noted, a response containing $1,670.00 in fees was filed in another application (U.S. application No. 11/915,386) on 25 November 2007. This response was filed by Xiaoju Shi for an invention titled P. GINGIVALIS VACCINE.

This response would have been a timely and proper response to the Form PCT/DO/EO/916 mailed 29 October 2007.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

The response and fees filed 25 November 2007 in U.S. application No. 11/915,386 have been transferred to the subject application.

Accordingly, the Notification of Abandonment (Form PCT/DO/EO/909) mailed 23 February 2011 is hereby **VACATED**.

This application is being forwarded to the DO/EO/US for further processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN P. DE LUCA
17420 RYEFIELD CT.
DICKERSON MD 20842

MAILED
MAY 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,823,745	:	
Issue Date: November 2, 2010	:	
Application No. 11/569,191	:	DECISION ON PETITION
Filed: April 19, 2007	:	
Attorney Docket No. **66347-145**	:	

This is a decision on the letter filed December 8, 2010, requesting to withdraw the petition filed December 1, 2010.

The request is **GRANTED**.

Accordingly, the petition for duplicate Letters Patent filed December 1, 2010 will not be taken up for a decision.

Any questions concerning this matter may be directed to JoAnne Burke at (571) 272-4584.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Suzannah K. Sundby (UC)
SMITH, GAMBRELL & RUSSELL, LLP
1130 Connecticut Avenue, NW
Suite 1130
WASHINGTON DC 20036

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Patent of Zeng :
Patent No. 7,420,032 :
Issued: September 2, 2008 : NOTICE
Application No. 11/569,250 :
Filed: November 17, 2006 :
Attorney Docket No. 034044.036 (2004-496-3)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed May 16, 2011.

Your fee deficiency submission under 37 CFR 1.28(c) is **NOT ACCEPTED**.

Any reconsideration petition should be filed within one (1) month of the mailing of this decision. Extensions of time are not available.

37 CFR 1.28(c)(2)(ii) states:

Itemization of the deficiency payment . An itemization of the total deficiency payment is required. The itemization must include the following information:

> (A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non- small entity;
> (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
> (C) The deficiency owed amount (for each fee erroneously paid); and
> (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

37 CFR 1.28(c)(3) states:

Failure to comply with requirements . If the requirements of paragraphs (c)(1) and (c)(2) of

this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

The Office requires petitioner to comply with 37 CFR 1.28(c)(2) within one month of the mailing of this decision.

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)

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Suzannah K. Sundby (UC)
SMITH, GAMBRELL & RUSSELL, LLP
1130 Connecticut Avenue, NW
Suite 1130
WASHINGTON DC 20036

MAILED
AUG 09 2011
OFFICE OF PETITIONS

In re Patent of Zeng :
Patent No. 7,420,032 :
Issued: September 2, 2008 :
Application No. 11/569,250 :
Filed: November 17, 2006 :
Attorney Docket No. 034044.036 (2004-496-3)

NOTICE

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed July 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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,711,356	:	
Application No. 11/569,259	:	
Filed: November 17, 2006	:	ON PETITION
Issued: May 4, 2010	:	
Attorney Docket No. 297713US2PCT	:	

This is a decision on the petition filed July 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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	11569346
Filing Date	06-Aug-2007
First Named Inventor	Manabu Yanou
Art Unit	1777
Examiner Name	ALLISON GIONTA
Attorney Docket Number	086650-0024
Title	WATER PURIFIER

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	/Louis J. DelJuidice/
Name	Louis J. DelJuidice
Registration Number	47522

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 30,2011

In re Application of :

Manabu Yanou

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11569346

Filed : 06-Aug-2007

Attorney Docket No : 086650-0024

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 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 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 1777 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
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IRVINE, CA 92614

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of
Thomas H. Myers, et. al.
Application No. 11/569,351
Filed: June 23, 2008
Attorney Docket No. N/A

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed May 4, 2011.

The request is **NOT APPROVED**.

The request is signed by Terry K. Tullis on behalf of himself and all the attorneys/agents associated with Customer Number 20995. However, 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*[1], or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named signing inventor.

Petitioner should note that Myers Surgical Solutions, LLC is not the assignee of the entire right, title and interest for the above application. A review of the record shows that inventors Thomas H. Myers and Douglas M. Lorang assigned their rights to Myers Surgical Solutions, LLC by assignment recorded on December 5, 2006, and that inventor Charles L. Nelson assigned rights to Sonoma Orthopedic Products, Inc. by assignment recorded on September 28, 2010. Therefore, Myers Surgical Solutions, LLC is not the assignee of entire right, title and interest in the above-identified application.

[1] 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.*

Additionally, petitioner should note that the Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82).

In view of the above, all future communications from the Office will continue to be directed to the above-listed address unless otherwise notified by the applicant.

There is an outstanding Office action mailed on March 3, 2011, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Myers Surgical Solutions, LLC
3240 Waldwick Way, S.E.
Marietta, GA 30067-9123

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11569357	Confirmation Number	7416	Filing Date	2011-11-18
Attorney Docket Number (optional)		Art Unit	2884	Examiner	Carolyn IGYARTO
First Named Inventor	Robert DESBRANDES				
Title of Invention	METHOD AND DEVICE FOR REMOTELY COMMUNICATING USING PHOTOLUMINESCENCE OR THERMOLUMINESCENCE				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
ROBERT		DESBRANDES	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

- (●) (1) I am an inventor in this application and I am 65 years of age, or more.
- ( ) (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/ROBERT DESRANDES/	Date (YYYY-MM-DD)	2011-03-28
Name	ROBERT DESBRANDES		

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of
Robert Desbrandes

Application No. 11569357

Filed: November 18,2006

Attorney Docket No.

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 28-MAR-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
JUL 07 2011
OFFICE OF PETITIONS

NEXUS LAW GROUP LLP
1500 - 701 WEST GEORGIA STREET
VANCOUVER BC V7Y1C6
CANADA

In re Application of Yuers	:	
Application No. 11/569,435	:	Decision on Petition
Filing Date: November 21, 2006	:	
Attorney Docket No. 50042-1d	:	

This is a decision on the petition under 37 CFR 1.137(b) filed June 16, 2011, which requests revival of the above-identified application.

The petition is **granted**.

The Office issued a final Office action on November 3, 2010, which set a shortened statutory period for reply of three (3) months. Although a three-month extension of time was obtained, a proper reply to the Office action was not timely filed. As a result, the application became abandoned on May 4, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of a request for continued examination, (2) the required petition fee of $810, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

Technology Center Art Unit 3635 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OPPEDAHL PATENT LAW FIRM, LLC
PO BOX 5940
DILLON, CO 80435-5940

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Patent No. 7,579,806 :
Issue Date: August 25, 2009 :
Application No. 11/569,467 : ON PETITION
Filed: November 21, 2006 :
Attorney Docket No. SNDN.P-005-USNP :

This is a decision on the petition filed November 14, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED
SEP 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Eric L. DELWART et al	:	
Application No. 11/569,554	:	DECISION ON PETITION
Filed: November 22, 2006	:	
Attorney Docket No. 02307O-147910US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 22, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $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 June 30, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 07-1896.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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JEROME D. JACKSON (JACKSON PATENT LAW OFFICE)
211 N. UNION STREET, SUITE 100
ALEXANDRIA VA 22314

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Patent No. 7,972,089	:	DECISION ON PETITION
Issue Date: July 5, 2011	:	
Application No. 11/569,582	:	
Filed: January 23, 2007	:	
Attorney Docket No. 171.014	:	

This is a decision on the Request For Correction Of Assignees' Names Under MPEP 1481.01, filed October 27, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to add the omission of the second and third assignees' names. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present petition was submitted to add the omission of the second and third assignees' names on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second and third assignees' names to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with the Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,972,089.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/569,591	10/22/2007	Deepak Poddar	PODDP001NAT	1463

27949 7590 08/02/2011
LAW OFFICE OF JAY R. YABLON
910 NORTHUMBERLAND DRIVE
SCHENECTADY, NY 12309-2814

EXAMINER
KEE, FANNIE C

ART UNIT	PAPER NUMBER
3679	

NOTIFICATION DATE	DELIVERY MODE
08/02/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jyablon@nycap.rr.com
jay_r_yablon@msn.com

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AUG - 1 2011

Law Office of Jay R. Yablon
910 Northumberland Drive
Schenectady, NY 12309-2814

In re Application of Deepak Poddar Application No. 11/569,591 Filed: October 22, 2007 For: THREADED PIPE JOINT COUPLING WITH WIRE LOCK DEVICE	: : : : :	DECISION ON PETITION TO TO ACCORD AN EARLIER FILING DATE

This is in response to applicant's petition filed November 15, 2010 to accord a timely filing date to an original reply to the Office action dated June 24, 2010, which reply was apparently lost, and to refund the extension of time fee included with the resubmission of the response.

The petition is **DISMISSED**.

A review of the file record indicates that the original response filed on September 21, 2010, was lost. In response to a suggestion form the Supervisory Patent Examiner (SPE) of the Art Unit in which the case was assigned, the response was resubmitted on November 9, 2010 with a 2 month extension of time. The extension of time fee was refunded by mistake by the Office on January 18, 2011 and was resubmitted by the applicant on July 6, 2011.

The applicant has submitted a copy of the September 21, 2010 response which includes a copy of a shipping airway bill with an indication of delivery and the identification of a specific person at the USPTO receiving the delivery.

Despite the receipt and the indication of receipt at the USPTO, the evidence is insufficient to accord the September 21, 2010 filing date to the response submitted on November 9, 2010. While it is clear that a delivery was received by the USPTO, the receipt does not identify what documents were a part of the delivered package. Receipts from a private shipper, lacking any details of the specific documents delivered, are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.

For the above reason, the filing date of the response filed November 9, 2010 will not be accorded the requested September 21, 2010 date of earlier filing. Therefore, the request for a refund of the extension of time fees will not be granted as the extension is needed to make the response timely filed.

The application is being forwarded to the examiner of record for treatment on the merits of the response filed by the applicant on June 13, 2011.

Telephone inquiries relative to this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611.

David Talbott, Director
Patent Technology Center 3600
(571) 272-5150

SM/sm: 7/22/11

SM

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
AUG 03 2011
OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of	:	
Franz Stuhlbacher et al	:	
Application No. 11/569,669	:	DECISION ON PETITION
Filed: January 29, 2009	:	TO WITHDRAW
Attorney Docket No. P29139	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2011.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, do not appear to meet any of the conditions set forth in 37 CFR 10.40.

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 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Application of
Ying
Application No 11/569,729
Filed: November 28, 2006
Attorney Docket No. 16836.3

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 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 October 28, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 29, 2010. A Notice of Abandonment was mailed on May 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 Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3687 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/23/10

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 11569751 Patent No.: 7820462

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: _____

_____

_____

_____

_____

SPE

2818
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7844153
Application No.: 11/569788
Inventor(s) : Toshinori Watanabe et al.
Issued : 11/30/2010
Attorney Docket No.: 071051.00076 (DC10055)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 02/07/2011

Address: David M. LaPrairie
HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067-2557

ts/md

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United States Patent and Trademark Office
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HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Patent No. 7,844,153	:	
Issue Date: November 30, 2010	:	
Application No. 11/569,788	:	ON PETITION
Filed: August 3, 2007	:	
Attorney Docket No. 071051.00076 (DC10055)	:	

This is a decision on the petition February 17, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **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(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The Certificate of Correction fee filed January 26, 2011, is acknowledged. As authorized, the petition fee as required under the provisions of 37 CFR 3.81(b) has been charged.

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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HOWARD & HOWARD ATTORNEYS PLLC
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ROYAL OAK MI 48067

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,844,153	:	
Issue Date: November 30, 2010	:	
Application No. 11/569,788	:	ON PETITION
Filed: August 3, 2007	:	
Attorney Docket No. 071051.00076 (DC10055)	:	

This is a decision on the petition May 6, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SOROKER-AGMON ADVOCATE
AND PATENT ATTORNEYS
NOLTON HOUSE, 14 SHENKAR
STREET
HERZELIYA PITUACH 46725 IL
ISRAEL

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of

Rousso, et al. :

Application No. 11/569,808

: DECISION ON PETITION

Filed: November 30, 2006

:

Attorney Docket No. **4186/87.3**

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 June 10, 2009, 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 September 11, 2009. A Notice of Abandonment was mailed December 17, 2009.

The amendment filed December 6, 2011, is noted.

The request for the extension of time within the third month filed December 18, 2011, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of $635.00 will be refunded, in due course.

The application is being forwarded to Technology Center 3700, GAU 3772 for further processing.

In re Application No. 11/569,808

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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P.O. Box 1450
Alexandria, VA 22313-1450
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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Longo et al.	:	
Application No. 11/569,860	:	DECISION ON PETITION
Filed: April 3, 2007	:	
Attorney Docket No. PNS-12102/01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, February 19, 2010, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on August 20, 2010. A Notice of Abandonment was mailed September 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3729 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

MAILED
FEB 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,741,932 :
Issue Date: June 22, 2010 :
Application No. 11/569,883 : ON PETITION
Filed: December 1, 2006 :
Attorney Docket No. NGB-41585 :

This is a decision on the petition filed December 23, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. 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.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

PTO/SB/20PCT-AU (01-11)
Approved for use through 01/31/2012. OMB 0651-0058
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 PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE IP AUSTRALIA (IPAU) AND THE USPTO

Application No:	11/570,003	Filing date:	December 5, 2007
First Named Inventor:	Cameron Anthony George		
Title of the Invention:	SAFETY SYSTEM AND METHOD		

THIS REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM ALONG WITH THE REQUIRED DOCUMENTS MUST BE SUBMITTED VIA EFS-WEB. INFORMATION REGARDING EFS-WEB IS AVAILABLE AT HTTP://WWW.USPTO.GOV/EBC/EFS_HELP.HTML

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PCT-PPH PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PCT-PPH PROGRAM.

The above-identified application is (1) a national stage entry of the corresponding PCT application, or (2) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (3) a national application that claims domestic/ foreign priority to the corresponding PCT application, or (4) a national application which forms the basis for the priority claim in the corresponding PCT application, or (5) a continuing application of a U.S. application that satisfies one of (1) to (4) above, or (6) a U.S. application that claims domestic benefit to a U.S. provisional application which forms the basis for the priority claim in the corresponding PCT application.

The corresponding PCT application number(s) is/are: PCT/AU2005/000800

The international filing date of the corresponding PCT application(s) is/are: June 3, 2005

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above–identified corresponding PCT application(s)**

☐ Is attached.

☑ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☐ Is attached.

☑ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). 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 2 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.

Approved for use through 01/31/2012. OMB 0651-0058
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 PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE IPAU AND THE USPTO

(continued)

Application No.:	11/570,003
First Named Inventor:	Cameron Anthony George

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

☐ Is attached

☑ Has already been filed in the above-identified U.S. application on August 31, 2007

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

☐ Are attached.

☑ Have already been filed in the above-identified U.S. application on August 31, 2007

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1-26	1-26	All of the claims are Identical

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /John E. Nemazi/	Date March 16, 2011
Name (Print/Typed) John E. Nemazi	Registration Number 30876

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAIL

APR 08 2011
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

In re Application of	:	
GEORGE, CAMERON ANTHONY, et al.	:	DECISION ON REQUEST TO
Application No. 11/570,003	:	PARTICIPATE IN PATENT
Filed: December 5, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. **POZ0101PUSA**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(a)

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(a), filed March 16, 2011 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application be (a) a national stage entry of the corresponding PCT application, or (b) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (c) a national stage application that claims domestic/foreign priority to the corresponding PCT application, (d) a national application which forms the basis for the priority claim in the corresponding PCT application, or (e) a continuation application of the U.S. application which satisfies one of the above (a) to (d) scenarios.
(2) A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the corresponding PCT application(s) which indicates at least one claim in the PCT application has novelty, inventive step, and industrial applicability.
(3) A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the corresponding PCT application(s).
(4) English translations of the documents in (2) and (3) (if the documents are not in the English language).
(5) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claims which were indicated as having novelty, inventive step, and industrial applicability in the corresponding PCT application(s).
(6) Examination of the U.S. application has not begun;

(7) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA. WO/IPEA, IPER) of the corresponding PCT application(s).

The request to participate in the PCT-PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ken Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Kenneth A.. Wieder/

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

Doc Code: PET.RELIEF
Document Description: Certification and Request for Japan Events Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/570,009	Patent Number (if applicable):
First Named Inventor: Mitsumasa KOYANAGI	Title of Invention: SEMICONDUCTOR DEVICE HAVING THREE...

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Joerg-Uwe Szipl/	Date April 6, 2011
Name (Print/Typed) Joerg-Uwe Szipl	Practitioner Registration Number 31,799

***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.

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GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Mitsumasa Koyanagi	:	
Application No. 11/570,009	:	DECISION ON PETITION
Filed: October 1, 2008	:	
Attorney Docket No. ARICHI0005	:	

This is a decision on the request filed April 6, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on November 4, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 2891 for re-mailing the Office action of November 4, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DEC 22 2011

PCT LEGAL ADMINISTRATION

DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL NJ 07733

In re Application of: MUND, Dietrich, et al. :
U.S. Application No.: 11/570,039 :
PCT No.: PCT/EP2005/006140 :
International Filing Date: 08 June 2005 :
Priority Date: 09 June 2004 :
Attorney's Docket No.: 9771-024us :
For: BUILDING UP DIFFRACTIVE OPTICS :
BY STRUCTURED GLASS COATING :

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to the petition under 37 CFR 1.182 filed by applicants on 09 December 2011. Applicants have paid the required petition fee.

BACKGROUND

On 04 December 2006, applicants filed materials to initiate the present U.S. national stage application using the EFS-Web electronic filing system. This submission included, among other materials, an application data sheet (ADS) and payment of the basic national fee. The ADS identified the application as the U.S. national stage of PCT/EP2005/006140; however, as evidenced by the Electronic Acknowledgement Receipt, the information provided by applicants during the electronic filing process identified the application as the U.S. national stage of PCT/US2005/006140. Thus, applicants' original national stage submission of 04 December 2006 identified two different international application numbers to which the submission was purportedly directed.

On 09 December 2011, applicants filed the petition under 37 CFR 1.182 considered herein.

DISCUSSION

As noted above, the initial application submission 04 December 2006 identified two different international application numbers to which the national stage application was apparently directed. Under such circumstances, a grantable petition under 37 CFR 1.182 is required to correct the record with regard to the inconsistent international application numbers provided by applicants. Such correction is necessary before the materials filed 04 December 2006, including the basic national fee payment, may be confirmed as having been directed to either of the listed international applications, as necessary to avoid abandonment of the correct international application with respect to the United States.

The present petition confirms that the present application is the national stage of PCT/EP2005/006140 and that the entry of international application number PCT/US2005/006140 during the electronic filing process was incorrect. The petition also notes that the correct international application number was set forth in the ADS filed with the original national stage materials on 04 December 2006. Finally, the petition was accompanied by the required petition fee.

The present petition satisfies the requirements for a grantable petition to correct the error in the international application number provided during the electronic filing process. Accordingly, the materials filed herein on 04 December 2006 will be treated as having been directed to international application PCT/EP2005/006140.

As requested, a copy of the German priority application from PCT/EP2005/006140, a certified copy of which was timely submitted by applicants during the international phase under PCT Rule 17, will be entered into the present application file.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The present application is confirmed as the U.S. national stage of PCT/EP2005/006140.

A copy of German application 10 2004 059 252.7, the foreign priority application from PCT/EP2005/006140, will be entered into the present application file.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-329

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEC 21 2011

PCT LEGAL ADMINISTRATION

DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL NJ 07733

In re Application of: MUND, Dietrich, et al. :
U.S. Application No.: 11/570,039 :
PCT No.: PCT/EP2005/006140 :
International Filing Date: 08 June 2005 :
Priority Date: 09 June 2004 :
Attorney's Docket No.: 9771-024us :
For: BUILDING UP DIFFRACTIVE OPTICS :
BY STRUCTURED GLASS COATING :

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to the petition under 37 CFR 1.182 filed by applicants on 09 December 2011. Applicants have paid the required petition fee.

BACKGROUND

On 04 December 2006, applicants filed materials to initiate the present U.S. national stage application using the EFS-Web electronic filing system. This submission included, among other materials, an application data sheet (ADS) and payment of the basic national fee. The ADS identified the application as the U.S. national stage of PCT/EP2005/006140; however, as evidenced by the Electronic Acknowledgement Receipt, the information provided by applicants during the electronic filing process identified the application as the U.S. national stage of PCT/US2005/006140. Thus, applicants' original national stage submission of 04 December 2006 identified two different international application numbers to which the submission was purportedly directed.

On 09 December 2011, applicants filed the petition under 37 CFR 1.182 considered herein.

DISCUSSION

As noted above, the initial application submission 04 December 2006 identified two different international application numbers to which the national stage application was apparently directed. Under such circumstances, a grantable petition under 37 CFR 1.182 is required to correct the record with regard to the inconsistent international application numbers provided by applicants. Such correction is necessary before the materials filed 04 December 2006, including the basic national fee payment, may be confirmed as having been directed to either of the listed international applications, as necessary to avoid abandonment of the correct international application with respect to the United States.

The present petition confirms that the present application is the national stage of PCT/**EP**2005/006140 and that the entry of international application number PCT/**US**2005/006140 during the electronic filing process was incorrect. The petition also notes that the correct international application number was set forth in the ADS filed with the original national stage materials on 04 December 2006. Finally, the petition was accompanied by the required petition fee.

The present petition satisfies the requirements for a grantable petition to correct the error in the international application number provided during the electronic filing process. Accordingly, the materials filed herein on 04 December 2006 will be treated as having been directed to international application PCT/**EP**2005/006140.

As requested, a copy of the German priority application from PCT/**EP**2005/006140, a certified copy of which was timely submitted by applicants during the international phase under PCT Rule 17, will be entered into the present application file.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The present application is confirmed as the U.S. national stage of PCT/**EP**2005/006140.

A copy of German application 10 2004 059 252.7, the foreign priority application from PCT/**EP**2005/006140, will be entered into the present application file.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-329

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Nesse et al.	:	
Application No. 11/570,070	:	DECISION ON PETITION
Filed: August 1, 2007	:	
Attorney Docket No. HAMS/0006	:	

This is a decision on the petition, filed July 19, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed November 25, 2009, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on June 9, 2010.

Petitioner asserts that the Office action dated November 25, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner at the correspondence address of record;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. 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 2832 for re-mailing the Office action of November 25, 2009. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

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FANELLI STRAIN & HAAG PLLC
1455 PENNSYLVANIA AVE NW, SUITE 400
WASHINGTON, DC 20004

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Dominik FEUERBACH, et *al.*	:	
Application No. 11/570,076	:	DECISION GRANTING PETITION
Filed: December 6, 2010	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. **093286-0108**	:	

This is a decision on the petition, filed December 6, 2010, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Patent of Chen et al.	:	DECISION ON REQUEST
Patent No. 7,785,535	:	FOR
Issued: August 31, 2010	:	RECONSIDERATION OF
Application No. 11/570,184	:	PATENT TERM ADJUSTMENT
Filed: June 29, 2007	:	
Docket No. IQA-011.01	:	

This is a decision on the petition under 37 CFR 1.705(d), filed November 1, 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 eight hundred fifteen (815) days.

The petition is **DISMISSED.**

Patentees argue the Office incorrectly calculated the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). Patentees argue the B Delay calculation should begin the day after three years after the PCT international application filing date of June 7, 2005.

However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is June 7, 2004. As the requirements for early commencement were not met, the national stage commenced in this application on December 7, 2006. Thus, "B" delay is 267 days, counting the number of days beginning on December 8, 2009 and ending on August 31, 2010, the date of issuance. See 1.703(b).

As stated in MPEP 1893.03(b), in pertinent part, "For most legal purposes, the filing date is the PCT international filing date. Exceptions to this general rule include the following:

> (C) Patent term adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) when the USPTO has failed to issue a patent within three years of the "actual filing date" of an application. In this situation, the "actual filing date" is the date the national stage commenced under 35 U.S.C. 371(b) or (f).

37 CFR 1.702(b) indicates that a patent is entitled to patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). In the case of an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000). See MPEP § 2730.

In view of the above, the correct patent term adjustment remains 462 days, which is the sum of 258 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 267 of B Delay, and reduced by 63 days for Applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : August 30, 2011

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/570,187 Patent No.: 7879935

CofC mailroom date: 6/23/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Should the changes be made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
SPE

1763
Art Unit

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Paper No.

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NOV 08 2010

OFFICE OF PETITIONS

JOHN ALEXANDER GALBREATH
2516 CHESTNUT WOODS CT
REISTERSTOWN MD 21136

In re Application of	:	
Cook	:	
Application No. 11/570,298	:	DECISION ON PETITION
Filed: December 8, 2006	:	PURSUANT TO
Attorney Docket No.: AP127-06	:	37 C.F.R. § 1.137(B)
Title: CONTROLLING CRACKS IN CEMENTITIOUS MATERIALS	:	

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 reply in a timely manner to the non-final Office action, mailed August 14, 2009, 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 15, 2009. A notice of abandonment was mailed on May 6, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on May 13, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 24 2010

OFFICE OF PETITIONS

DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE ID 83701-0877

In re Application:	:	
Iain MACLEOD	:	
Application No. 11/570,335	:	NOTICE
Filed: April 16, 2007	:	
Attorney Docket No. PETR101NUS	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 26, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **8019156**
Ser. No. **11/570341**
Inventor(s) : **HERZOG, OTTHEIN**
Issued : **09/13/2011**
Title : **METHOD AND DEVICE FOR SEGMENTING A DIGITAL REPRESENTATION OF CELLS**
Docket No. : **3436/017**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

OL

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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Greenberg, Traurig, LLP (LA)
2450 Colorado Avenue, Suite 400E
Intellectual Property Department
Santa Monica, CA 90404

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Donna Jackson	:	
Application No. 11/570,424	:	DECISION ON PETITION
Filed: June 1, 2007	:	TO WITHDRAW
Attorney Docket No. 091351.011500	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 10, 2010.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 33717 have been revoked by the assignee of the patent application on September 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 until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Cooley LLP
Attn: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Dale S. Dhanoa, et al.
Application No. 12/570,510
Filed: September 30, 2009
Attorney Docket No. 08100.0069-06000

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed October 30, 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 December 31, 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 reply, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on August 5, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to undersigned 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 August 5, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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

GlaxoSmithKline
Global Patents
Five Moore Drive, P.O. Box 13398
Research Triangle Park, NC 27709-3398

Date: August 2, 2010
Application No. 11/570,564
Filed: October 6, 2006
Subject: **Novel Compounds**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed August 2, 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 during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of** David Amantini, Markus Bergauer, and Roberto Profeta. 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
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/570,616	12/14/2006	Daniel E. Tedesco	05-023	3006

22927 7590 10/04/2011
WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

EXAMINER
MISIASZEK, MICHAEL

ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
10/04/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 0 4 2011

WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

In re Application of	:	
TEDESCO et al.	:	
Application No. 11/570,616	:	DECISION ON REQUEST
Filed: December 14, 2006	:	TO WITHDRAW FINALITY
For: APPARATUS, SYSTEMS AND METHODS	:	
FOR FACILITATING COMMERCE	:	

This is a decision on applicants' Request for Withdrawal of Finality filed September 16, 2011, which will be treated as a petition under 37 CFR 1.181 for withdrawal of finality of the Office action mailed June 22, 2011.

The petition is **GRANTED.**

A review of the file record indicates that a non-final Office action was mailed on January 5, 2011. The examiner relied upon Pond et al., alone or in combination with other references, in rejecting claims 1-34. Claims 1, 2, 4, 5 and 32-34 are independent claims. In a response filed on April 5, 2011, applicants presented amendments to claims 1 and 32-34. In the final Office action mailed June 22, 2011, the examiner relied upon a new reference to Du, in combination with Pond and the other references, to reject claims 1-34. The examiner indicated that "applicant's amendment necessitated the new ground(s) of rejection presented in this Office action."

Applicants argue that the Office action rejects claims 2-31 on new grounds that rely on the new Du reference. However, no amendments were made to any of claims 2-31 in response to the previous Office action. Accordingly, applicants request withdrawal of the finality of the September 16, 2011 Office action.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Since the only amendatory changes presented in the response filed April 5, 2011 were to claims 1 and 32-34, clearly the new grounds of rejection of claims 2-31 were not necessitated by amendment. Therefore, the finality of the June 22, 2011 Office action is

premature. Accordingly, the finality of the Office action, **but not the action itself**, is hereby withdrawn. The Office action mailed June 22, 2011 is now considered to be non-final and the shortened statutory period for response continues to run THREE (3) MONTHS from the date of the mailing of the Office action.

Questions concerning this decision should be referred to Teri Luu, Quality Assurance Specialist, at (571) 272-7045.

Wynn Coggins, Director
Patent Technology Center 3600
Telephone No.: (571)-272-5350

WC:tl 09/30/11
TL

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 3 1 2011

PCT LEGAL ADMINISTRATION

BUDDE, SCHOU & OSTENFELD, A/S
VESTER SOEGADE 10, 5TH FLOOR
COPENHAGEN DK-16-01
DENMARK

In re Application of	:	
Jensen, Annebeth Siø et al.	:	
Application No.: 11/570,680	:	NOTIFICATION
PCT No.: PCT/DK2005/000427	:	
Int. Filing Date: 24 June 2005	:	OF
Priority Date: 25 June 2004	:	
Docket No.: 128560/RC/SU	:	ABANDONMENT
For: COMPOSITIONS SUITABLE FOR	:	
TREATING CUTANEOUS SIGNS OF	:	
AGING	:	

This notification is in response to applicant's submission of 7 pages of declaration, in the United States Patent and Trademark Office on 10 December 2008.

BACKGROUND

On 08 December 2008, the Office mailed Notification of Defective Response informing applicant that the 21 July 2008 abandonment had been vacated, but that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required within a one month non-extendable time limit.

On 10 December 2008, applicants supplied 7 pages of declaration from the inventors.

DISCUSSION

The declaration does not comply with 37 CFR 1.497(a)-(b). The declaration is composed of three pages of declaration, three supplemental sheets "4 of 5," and one supplemental sheet "5 of 5 ". Each supplemental sheet "4 of 5" lists the same inventors, but was separately executed. Further, the first page of the declaration indicates only two supplemental sheets are attached. These indicates that at least three copies of the declaration were executed. While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy of the oath or declaration, as executed by the inventors, must be returned to the Office. MPEP 605.04(a).

This application is **ABANDONED**.

Applicants may wish to consider the filing of a petition under 37 CFR 1.137.

CONCLUSION

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 13 2011

PCT LEGAL ADMINISTRATION

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
JENSEN, Annebeth, Siø, et al.	:	
Application No.: 11/570,680	:	
PCT No.: PCT/DK2005/000427	:	
Int. Filing Date: 24 June 2005	:	DECISION
Priority Date: 25 June 2004	:	
Att. Docket No.: 3350-0115PUS1	:	
For: COMPOSITIONS SUITABLE FOR TREATING CUTANEOUS SIGNS OF AGING	:	

Applicant's petition under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 11 May 2011, is **GRANTED**.

Applicant states that 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, as required by 37 CFR 1.137(b)(3). The required response and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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.
11/570,688	12/15/2006	John Booker	102.0028US	3978

35204 7590 06/16/2011
SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
Bldg. 14
ROSHARON, TX 77583

EXAMINER
EDWARDS JR, TIMOTHY

ART UNIT	PAPER NUMBER
2612	

NOTIFICATION DATE	DELIVERY MODE
06/16/2011	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):

VSOLIS2@SLB.COM
ABrown15@rosharon.oilfield.slb.com

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SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
Bldg. 14
ROSHARON TX 77583

In re Application of
BOOKER, JOHN et al.
Application No. **11/570,688**
Filed: **December 15, 2006**
Attorney Docket Number: **102.0028US**
For: **IMAGE PROCESSING DEVICE AND METHOD, RECORDING MEDIUM, AND PROGRAM FOR TRACKING A DESIRED POINT IN A MOVING IMAGE**

DECISION ON PETITION
FOR CONSIDERATION OF IDS

This is a decision on the petition, filed May 20, 2011, under 37 CFR 1.181 to consider the reference cited in the Information Disclosure Statement filed May 20, 2011.

The Petitioner seeks to have considered a reference that was previously not properly made of record in that it was listed without a date on the Information Disclosure Statement filed on December 15, 2006.

REGULATIONS AND PRACTICE:

37 CFR § 1.98 Content of information disclosure statement. States in part:
(5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

37 CFR § 1.97 Filing of information disclosure statement. States in part:
(d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:
(1) The statement specified in paragraph (e) of this section; and
(2) The fee set forth in § 1.17(p).
(e) A statement under this section must state either:
(1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of

information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.
(i) If an information disclosure statement does not comply with either this section or § 1.98, it will be placed in the file but will not be considered by the Office.

OPINION

A review of the application file reveals that the Non-final Office action mailed on April 29, 2010 included a copy of applicant's Information Disclosure Statement filed on December 15, 2006 with a clear notation by the examiner that the reference in question, "Simple Methods for Detecting Zero Crossing" by R.W. Wall, was not considered because no date was provided. A Notice of Allowance was mailed to applicant on February 23, 2010. Applicant filed an Information Disclosure Statement on May 20, 2011, again listing the Wall reference, this time with a date. Because the Information Disclosure Statement filed on May 20, 2011 was filed after the mailing of the Notice of Allowance, its consideration is governed by paragraph (d) of 37 CFR § 1.97. Since neither of the statements in paragraph (e) of 37 CFR § 1.97 have been or can be made, the Information Disclosure Statement on May 20, 2011 will not be considered.

Therefore, the petition is **DENIED**.

The issue fee for this application was paid on May 23, 2011. The application will proceed to issue. In accordance with paragraph (e) of 37 CFR § 1.97 the Wall reference is placed in the application file.

Any inquiry regarding this decision should be directed to Daniel Swerdlow, Quality Assurance Specialist, at (571) 272-7531.

/Daniel Swerdlow/

Daniel Swerdlow
Quality Assurance Specialist
Technology Center 2600
Communications

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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PHILIPS INTELLECTUAL PROPERTY
& STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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AUG 19 2011

OFFICE OF PETITIONS

In re Application of	:	
BOEHMER, et al	:	
Application No. 11/570,787	:	DECISION ON PETITION
Filed: December 18, 2006	:	
Attorney Docket No. 2004P01498OUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a proper reply to the Notice of Non-Compliant Amendment mailed, October 12, 2010, 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. Accordingly, the application became abandoned on November 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment, (2) the petition fee of $1620; and (3) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center 1618 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110119

DATE : January 20, 2011

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7773468

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:

/WAYNE R YOUNG/
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
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Black, Lowe, Graham
701 5th Ave., Suite 4800
Seattle WA 98104

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NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Paul J. Lavigne et al.	:	DECISION ON PETITION
Application No. 11/570,839	:	TO WITHDRAW
Filed: July 15, 2008	:	FROM RECORD
Attorney Docket No. **GORI-1-1009**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed October 19, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DON W. BULSON (GRCO)
RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, 19TH FLOOR
CLEVELAND, OH 44115

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
John W. C. Coles et al :
Application No. 11/570,855 : DECISION ON PETITION
Filed: March 27, 2009 : TO WITHDRAW
Attorney Docket No.: GRLGP0338WOUSA : 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 19, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Michael S. Smith on behalf of all the practitioners of record associated with Customer Number 86073.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the Customer Number provided (61654) does not identify the intervening assignee of the entire interest or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael S. Smith
701 Fifth Avenue, Suite 4800
Seattle, WA 98121

10 SEP 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:
ISHIYAMA	:
Serial No.: 11/570,863	:
PCT No.: PCT/JP05/10463	:
Int. Filing Date: 8 June 2005	: DECISION
Priority Date: 18 June 2004	:
Atty. Docket No.: Q98909	:
For: IMAGE DISPLAY SYSTEM, IMAGE DISPLAY	:
METHOD, AND IMAGE DISPLAY PROGRAM	:

This is a decision on applicant's "Request for Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 09 November 2009 in the above referenced application.

BACKGROUND

On 18 December 2006, prior to the thirty month deadline for filing a national stage application, applicant filed a transmittal letter requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee. Thereafter on 08 January 2007, applicant filed a declaration executed by the inventor.

On 11 July 2007, a Notification of Acceptance was mailed to applicant erroneously indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371 on 18 January 2007 and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 January 2007.

DISCUSSION

A review of the application file reveals that as required by 35 U.S.C. 371(c)(4), a declaration, in compliance with 37 CFR 1.497(a) and (b) was submitted on 08 January 2007. The date of completion of all 35 U.S.C. 371 requirements includes fulfillment of subsection (b), which states that the national stage shall commence with the expiration of the time limit under PCT Article 22(a) or 39(1)(a) of the PCT Treaty. The date of completion of all requirements of 35 U.S.C. 371 is 08 January 2007. The Notification of Acceptance (Form PCT/DO/EO/903) issued on 11 July 2007 which indicated this date as 18 January 2007 is incorrect; the date applicant fulfilled all the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is 08 January

2007, not 18 January 2007 as indicated on the Notification. Thus the Notification of Acceptance mailed on 11 July 2007 is hereby **VACATED.**

The Notification of Acceptance and corrected filing receipt mailed on 23 August 2010 are correct and remain in effect.

CONCLUSION

The Notification of Acceptance (Form PCT/DO/EO/903) issued on 11 July 2007 is **VACATED**.

The Notification of Acceptance issued on 23 August 2010 correctly indicates that applicant had fulfilled all the requirements of 35 U.S.C. 371 on 08 January 2007 and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements on 08 January 2007. A Corrected Filing Receipt was also issued per applicant's request.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571)-273-0459

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CARLSON GASKEY & OLDS
400 W MAPLE STE 350
BIRMINGHAM MI 48009

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SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Gieras et al.	:	
Application No. 11/570889	:	DECISION ON APPLICATION
Filing or 371(c) Date: 12/19/2006	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
60469-131PUS1;000.05396-W	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed June 8, 2010. Applicant submits that the patent is entitled to at least 1 year and day patent term extension, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction (1) based upon an assertion that the Office erred in failing to calculate an adjustment of 9 months and 7 days pursuant to 37 CFR 1.702(a)(1), and (2) on the basis that the Office will take in excess of three years to issue this patent. The Application for Patent Term Adjustment is properly treated under 37 C.F.R. § 1.705(b).

The Application for Patent Term Adjustment under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

BACKGROUND

The application was filed on December 19, 2006. On March 24, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days.

On June 9, 2010, applicant timely submitted the present request for reconsideration of patent term adjustment[1]. Applicant asserts that the Office erred in failing to calculate an adjustment of 9 months and 7 days pursuant to 37 CFR 1.702(a)(1), in connection with the mailing of a non-final Office action on November 24, 2008. Applicant provides that the application had a completion date under 35 U.S.C. § 371 of December 19, 2006, and under 37 CFR 1.702(a)(1), the first Office action should have been mailed within 14 months of that date, or February 19, 2008. However, Applicant provides that the first Office action was not mailed until November 26, 2008, which constitutes a 9 month, 7 day delay.

OPINION

Applicant's arguments have been carefully considered. A review of Office records confirm that the "Date of Completion of all 35 U.S.C. 371 Requirements," or fulfillment date, as shown on the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495, mailed July 29, 2008, is December 19, 2006. The Office agrees that the Office failed to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, and the entry of a period of adjustment of 281 days is appropriate.

It is also noted that the Office errantly failed to assess a reduction pursuant to 37 CFR 1.704(c)(7), in connection with the Amendment filed March 1, 2010. Applicants filed an Amendment in response to the final Office action mailed December 15, 2009, on January 26, 2010. The Amendment failed to place the application in condition for allowance. Applicants were so notified in an Advisory Action mailed January 29, 2010. Applicants thereafter filed an Amendment on March 1, 2010. Pursuant to 37 CFR 1.704(c)(7), a reduction of 34 days, beginning on the day after the date the reply having an omission was filed, January 27, 2010, and ending on the date that the reply or other paper correcting the omission was filed, March 1, 2010, is appropriate.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is two hundred forty-seven (247) days (281 days Office adjustment – 34 days Applicant delay), subject to any terminal disclaimer.

With regard to the argument under 37 CFR 1.702(b), knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

[1] Office records show that the Issue Fee payment was received in the Office on June 16, 2010.

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

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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.

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11570889 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTE Calculations for Application: 11570889

Application Filing Date	12/19/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	0
A Delays	0	PTO Manual Adjustment	247
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTE (days)	247

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
59	09/28/2010		PD28	Adjustment of PTA Calculation by PTO	247		0
42	03/24/2010		MN/=.	Mail Notice of Allowance	0		0
41	03/22/2010		IREV	Issue Revision Completed	0		0
40	03/22/2010		DVER	Document Verification	0		0
39	03/22/2010		N/=.	Notice of Allowance Data Verification Completed	0		0
38	03/21/2010		EX.A	Examiner's Amendment Communication	0		0
37	03/21/2010		CNTA	Notice of Allowability	0		0
36	03/11/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)	0		0
35	03/08/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)	0		0
34	03/02/2010		FWDX	Date Forwarded to Examiner	0		0
33	03/01/2010		A.NE	Amendment after Final Rejection	0		0
31	01/29/2010		MCTAV	Mail Advisory Action (PTOL - 303)	0		0
30	01/29/2010		CTAV	Advisory Action (PTOL-303)	0		0
28	01/27/2010		FWDX	Date Forwarded to Examiner	0		0
27	01/26/2010		A.NE	Amendment after Final Rejection	0		0
32	01/08/2010		EIDS.	Electronic Information Disclosure Statement	0		0
29	01/08/2010		IDSC	Information Disclosure Statement considered	0		0
26	01/08/2010		WIDS	Information Disclosure Statement (IDS) Filed	0		0
25	12/15/2009		MCTFR	Mail Final Rejection (PTOL - 326)	0		0
24	12/10/2009		CTFR	Final Rejection	0		0
23	09/26/2009		FWDX	Date Forwarded to Examiner	0		0
22	08/10/2009		A...	Response after Non-Final Action	0		0
21	05/27/2009		MCTNF	Mail Non-Final Rejection	0		0
20	05/26/2009		CTNF	Non-Final Rejection	0		0
19	03/27/2009		FWDX	Date Forwarded to Examiner	0		0
18	02/04/2009		A...	Response after Non-Final Action	0		0
17	11/26/2008		MCTNF	Mail Non-Final Rejection	0		0
16	11/24/2008		CTNF	Non-Final Rejection	0		0
0	11/24/2008		DUMMY	Dummy Standard Action - DO Not DELETE	0		0
10	11/22/2008		DOCK	Case Docketed to Examiner in GAU	0		0
9	11/06/2008		PG-ISSUE	PG-Pub Issue Notification	0		0
8	08/20/2008		OIPE	Application Dispatched from OIPE	0		0
5	07/29/2008		FLRCPT.O	Filing Receipt	0		0
4	07/29/2008		M903	Notice of DO/EO Acceptance Mailed	0		0
6	07/28/2008		PGPC	Sent to Classification Contractor	0		0
3	02/23/2007		CLSS	CASE CLASSIFIED BY OIPE	0		0
2	12/21/2006		L194	Cleared by OIPE CSR	0		0
14	12/19/2006		IDSC	Information Disclosure Statement considered	0		0
13	12/19/2006		WIDS	Information Disclosure Statement (IDS) Filed	0		0
7	12/19/2006		371COMP	371 Completion Date	0		0
1	12/19/2006		IEXX	Initial Exam Team nn	0		0

Export to: Excel

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
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S3	0	("DE29908089U1").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/23 16:24
S4	0	("29908089U1").PN.	DERWENT	OR	OFF	2010/11/23 16:24
S5	0	(29/908089).APP.	DERWENT	OR	OFF	2010/11/23 16:24
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S7	0	("29908089U1").PN.	US-PGPUB; USPAT; DERWENT	OR	OFF	2010/11/23 16:26
S8	0	(29/908089).APP.	US-PGPUB; USPAT; DERWENT	OR	OFF	2010/11/23 16:26
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S10	0	("19651996A1").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	OFF	2010/11/23 16:30
S11	755	(220/319).CCLS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/29 17:09
S12	0	("plasticadjadhesive").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/29 17:22
S13	108457	plastic with adhesive	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/29 17:22
S14	6	S11 and S13	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/29 17:22

S15	10649	cap adj seal	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/29 17:26
S16	108457	plastic with adhesive	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/29 17:26
S17	0	S16 and S15 and S11	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/29 17:26
S18	210	S16 and S15	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/29 17:26
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S20	0	"0909065"	EPO; DERWENT	OR	ON	2010/11/30 14:13
S21	0	"EP0909065"	EPO; DERWENT	OR	ON	2010/11/30 14:13
S22	0	("0989065").PN.	EPO; DERWENT	OR	OFF	2010/11/30 14:14
S23	0	("989065A").PN.	EPO; DERWENT	OR	OFF	2010/11/30 14:14
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S26	0	("0633413").PN.	EPO; DERWENT	OR	OFF	2010/11/30 14:17
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S30	0	("4236052A1").PN.	FPRS; EPO; DERWENT	OR	OFF	2010/11/30 14:19
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S32	0	("0800043").PN.	FPRS; EPO; DERWENT	OR	OFF	2010/11/30 14:21
S33	0	("800043A").PN.	FPRS; EPO; DERWENT	OR	OFF	2010/11/30 14:21
S34	0	("GB800043A").PN.	FPRS; EPO; DERWENT	OR	OFF	2010/11/30 14:21
S35	0	("800043A").PN.	FPRS; EPO; DERWENT	OR	OFF	2010/11/30 14:21

S36	0	("0800043").PN.	FPRS; EPO; DERWENT	OR	OFF	2010/11/30 14:21
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S38	755	(220/319).CCLS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/30 16:28
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S41	0	S40 and S38	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:32
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S43	0	("003and1").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/30 17:32
S44	0	S38 and S40	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:32
S45	0	cap adj ((plasticfilm)withfoil)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:32
S46	0	("capadj((plasticfilm)withfoil)").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/30 17:33
S47	41	capadj((plasticfilm)withfoil)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:33
S48	0	215/232,341,346,349	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:34
S49	1526	(215/232,341,346,349).CCLS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/30 17:34
S50	0	("03and12").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/30 17:34

S51	0	S40 and S49	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:34
S52	0	("capwithsealwithplastic").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/11/30 17:35
S53	5632	cap with seal with plastic	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:35
S54	148	S49 and S53	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/11/30 17:35

EAST Search History (Interference)

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12/3/2010 1:45:44 PM
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:	
Gellerfors et al.	:	
Application No. 11/570,995	:	NOTICE
Filed: December 20, 2006	:	
Attorney Docket No. 50586/003001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 9, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Pursuant to petitioners' authorization, deposit account no. 03-2095 will be charged the $3,617.00 fee deficiency.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SEP 28 2010

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,745,575 :
Issued: June 29, 2010 :
Application No. 11/571,005 : LETTER REGARDING
Filed: December 10, 2007 : PATENT TERM ADJUSTMENT
Attorney Docket No. 50538/018001 :

This letter is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed August 27, 2010. Patentees argue that no patent term adjustment should be granted to the patentees. This matter is being treated under 37 C.F.R. § 1.705(d).

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On June 29, 2010, the above-identified application matured into U.S. Patent No. 7,745,575 with a revised patent term adjustment of 28 days. On August 27, 2010, Patentees submitted the instant application. Patentees disclose that the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) shown on the face of the above-captioned patent appears to be in error and believe the calculation of the patent term adjustment period is, in fact, less than that calculated by the Office.

Applicants dispute the reduction of 49 days of PTA for the filing of a response to the Restriction Requirement mailed January 12, 2009 and argue that while a response was timely filed on February 6, 2009, in response to a notice of non-responsive amendment mailed on March 11, 2009, a subsequent response was filed March 27, 2009, still within the 3-month time period as outlined in 35 U.S.C. 154 (b)(2)(C)(ii).

Applicant's argument is not persuasive. 37 CFR 1.702(a)(2) provides that: Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

> Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was

filed or the appeal was taken.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

It is undisputed that a reply was filed on February 6, 2009 however, that reply had an omission and the omission was corrected on March 27, 2009, forty-nine (49) days after the filing of the initial response on February 6, 2009. Therefore the reduction is proper.

Applicants argue further that "the Patent Term Adjustment calculation shown on PAIR provides Applicants with 185 days of patent term under 37 C.F.R. § 1.702(b). Applicants believe this calculation is also in error. Under 37 C.F.R. § 1.702(b), patentees are granted additional patent term for the period starting one day following three years from the actual filing date of the application until issuance of the patent application. For a national stage application, this period is calculated from the day on which the national stage was commenced under 35 U.S.C. § 371(b) or (f). The present application is the national stage of International Application No. PCT/EP2005/006897. The § 371 (c) requirements were met on December 10, 2007; thus, the period for adjustment under 37 C.F.R. § 1.702(b) properly begins one day following three years from December 10, 2007, i.e., starting on December 11, 2010. This period for adjustment has not yet commenced, and Applicants should not be granted any additional patent term under 37 C.F.R. § 1.702(b)."

Applicants are advised that the "B" delay period is 185 days. In an international application, the over 3 year pendency period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). In this instance, the national stage commencement date is Tuesday, December 26, 2006 (not December 10, 2007, the date used by patentees for this calculation). The priority date of this application is June 25, 2004. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-month period. Further, as the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Federal Government Holiday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly,

the commencement date is Tuesday, December 26, 2006. Thus, the over 3 year period is 185 days, counting the number of days beginning on December 26, 2009 and ending on June 29, 2010, the date of issuance of the patent.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 03-2095.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SEP 06 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,674,354	: DECISION ON APPLICATION FOR
Issued: March 9, 2010	: PATENT TERM ADJUSTMENT and
Application No. 11/571,069	: NOTICE OF INTENT TO ISSUE
Filed or 371(c) date: December 21, 2006	: CERTIFICATE OF CORRECTION
Dkt. No.: 19790-015US1	:

This is a decision on the petition under 37 CFR 1.705(d), filed on May 7, 2010, requesting that the patent term adjustment for the above-identified application be increased from 509 days to 511 days.

The application for patent term adjustment is GRANTED TO THE EXTENT INDICATED HEREIN.

The patent is entitled to an overall adjustment of 510 days.

The application is entitled to an adjustment of 444 days per § 1.702(a).

The application is entitled to an adjustment of 66 days, not 67 days per § 1.702(b).

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of January 2, 2007. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a federal holiday (New Year's Day, Monday, January 1, 2007), the period expired on the subsequent business day, Tuesday, January 2, 2007. See, PCT Rule 80.5. Accordingly, the commencement date is January 2, 2007. Thus, the period of over three year delay commenced January 3, 2007, the day after the date that is three years after the commencement date, and ended March 9, 2010, the date that the patent issued.

Accordingly, the overall adjustment totals 510 days (444 + 66).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **510** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,674,354

DATED : **March 9, 2010** **DRAFT**

INVENTOR(S) : Berckmans, 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 509 days

Delete the phrase "by 509 days" and insert – by 510 days--

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SEP 16 2011

OFFICE OF PETITIONS

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

In re Patent of Love, et al.	:	DECISION ON REQUEST
Patent No. 7,977,474	:	FOR RECONSIDERATION OF
Issue Date: July 12, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/571,130	:	
Filed: February 16, 2007	:	
Docket No. DESBA/P33024 US	:	

This is a decision on the petition filed on September 12, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred ninety-three (893) days.

The petition is **dismissed**.

On July 12, 2011, the above-identified application matured into U.S. Patent No. 7,977,474 with a patent term adjustment of 876 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees argue the Office failed to calculate the proper adjustment under 37 CFR 1.702(b) and request three (3) additional days of PTA for the period beginning on December 24, 2011 and ending of December 26, 2011 be added to the Three Year Delay period. In addition, patentees dispute a 14 day reduction under 37 CFR 1.704(c)(10) for the IDS filed on January 6, 2011, after the mailing of a notice of allowance on October 20, 2010.

Patentees argue the Three Year Delay period should be 566 days, not 563 days. The three Year Delay period is triggered by the application's commencement date. The commencement date is 30 months from the priority date claimed in the international

application, or earlier. The priority date claimed in the international application is June 23, 2004. Because the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on Saturday, December 23, 2006, the period expired on the subsequent business day, Tuesday, December 26, 2006 as Monday, December 25, 2006 was a federal holiday. See PCT Rule 80.5. PCT Rules support this conclusion.

Accordingly, the period of adjustment under § 1.702(b) is 563 days, not 566 days, as patentees assert, counting the number of days beginning on the day after three years after the application's commencement date, December 27, 2009, and ending on July 12, 2011, when the patent issued. There are 53 days overlapping with the A delay period.

The PTA was reduced by 14 days pursuant to 37 CFR § 1.704(c)(10) for the submission of miscellaneous incoming letter and IDS on January 6, 2011. This submission was filed after the October 20, 2010 mailing of a Notice of Allowance.

Patentees contend that applicants did not engage in behavior that reasonably would be considered as failing in efforts to conclude prosecution of the application by filing the January 6, 2011 submission because it was expressly requested by the examiner. Patentees argue that because the filings were requested by the examiner to correct a clerical error on the part of the Office, patentees should not be assessed a reduction.

The reduction has been considered and the reduction is found to be warranted. It is undisputed that a "REQUEST FOR INDICATION THAT REFERENCES IN PREVIOUSLY SUBMITTED FORM PTO-1449 WERE CONSIDERED" and an IDS were filed on January 6, 2011, after the mailing of the Notice of Allowance. This was properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10). 37 CFR 1.704(c)(8) is inapplicable.

> 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.

Patentees' attention is drawn to the fact that there is no "expressly requested by the examiner" exemption in 37 CFR 1.704(c)(10) as there is in 37 CFR 1.704(c)(8). A 23 page The January 19, 2011 supplemental notice of allowance was mailed to demonstrate full consideration of the IDS submitted on January 13, 2011, the signed 1449 of which was attached to the Office action. The January 6, 2011 submission caused interference with the patent issue process.

Accordingly, the Office properly entered a 14 day reduction, counting the number of days in the period beginning on the date the REQUEST FOR INDICATION THAT REFERENCES IN PREVIOUSLY SUBMITTED FORM PTO-1449 WERE CONSIDERED and IDS were filed, January 6, 2011, and ending on January 19, 2011, the date the supplemental notice of allowance was mailed.

The patent term adjustment remains eight hundred seventy-six (876) days -- (571 days of A delay + 563 days of B delay - 53 overlapping days - 205 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.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **3-9-11**

TO SPE OF : ART UNIT **3636**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11571138** Patent No.: **7857388**

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: _____

_____

_____

_____

_____

DAVID DUNN
SUPERVISORY PATENT EXAMINER
SPE

3636
Art Unit

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JONATHAN P. O'BRIEN, PH.D.
HONIGMAN MILLER SCHWARTZ AND COHN LLP
350 EAST MICHIGAN AVENUE, SUITE 300
Kalamazoo MI 49007-3800

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application :
Bannen, et al. :
Application No. 11/571,140 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: December 21, 2006 :
Dkt. No.: 224990/05-029C-US/127541 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed May 13, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,125 days, not 528 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
Attorney Advisor
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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FISH & RICHARDSON P.C. (NY)
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent of Chen :
Patent No. 7,919,585 :
Issue Date: April 5, 2011 :
Application No. 11/571,195 :
Filing Date: January 24, 2008 :
Attorney Docket No. 07039-0548US1 :

DECISION ON PETITION

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed June 2, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by six hundred thirteen (613) days.

The petition is **dismissed**.

Pursuant to 35 U.S.C. § 1.154(b)(1)(B)(i), the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") does not include "any time consumed by continued examination of the application."

The petition argues the "time consumed by continued examination of the application" does not include the period of time beginning on the date the Office issued the Notice of Allowance and ending on the date the Office issued the patent.

"Once a request for continued examination ... is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b)."[1] In other words, the time period consumed by continued examination of the application ends on the date a patent is issued, not the day before the date a Notice of Allowance is issued.

The petition asserts the proper period of B Delay is 449 days, not 302 days as calculated by the Office.

[1] Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (September 18, 2000) (response to comment 8)

The application is the national stage of International Application No. PCT/US2005/022321, and has a date of commencement of December 26, 2006. A request for continued examination ("RCE") was filed October 25, 2010. The patent issued April 5, 2011.

37 C.F.R. § 1.703(b)(1) states,

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

The number of days beginning December 27, 2009, the day after the date three years after the date of commencement, and ending April 5, 2011, the date the patent issued, is 465 days, and the number of days beginning October 25, 2010, the date the RCE was filed, and ending April 5, 2011, the date the patent issued, is 163 days. Therefore, the period of B Delay is 302 (465 - 163) days, as previously calculated by the Office.

In view of the prior discussion, the Office properly calculated the period of B Delay and the patent term adjustment remains 466 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-01-11

TO SPE OF : ART UNIT 2448

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/571198 Patent No.: 8041792

CofC mailroom date: 11-15-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

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 /Firmin Backer/ **Art Unit** 2448

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3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX AZ 85012

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application:	:	
Ron Goldstein et al.	:	
Application No. 11/571,343	:	NOTICE
Filed: May 22, 2007	:	
Attorney Docket No. 15872.021	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 22, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Technology Center 1633.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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SILVER SPRING MD 20910

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AUG 01 2011

OFFICE OF PETITIONS

In re Application of :
Raffaello Cornolti et al. :
Application No. 11/571,381 : DECISION ON PETITION
Filed: February 14, 2007 :
Attorney Docket No. 5925 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, January 4, 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 April 5, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3657 for appropriate action by the Examiner in the normal course of business on the reply received July 6, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/23/2011

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/571391 Patent No.: 7848233 B2

CofC mailroom date: 3/16/2011

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: Approved all.
/Brenda Pham/
Primary Examiner AU 2464 1/9/2012

SPE **Art Unit**

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ST. JOSEPH MI 49085

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OFFICE OF PETITIONS

In re Application of Richard A. McCoy, et al. Application No. 11/571,456 Filed: December 29, 2006 Attorney Docket No. 71354-0510/US20050203	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 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 on September 12, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2475 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/571,480	04/22/2008	Arokia Nathan	058161-000024USPX	5464

70001 7590 10/15/2010
NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
10/15/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO IL 60606-6613

In re Application of	:	
NATHAN, AROKIA, et al.	:	DECISION ON REQUEST TO
Application No. 11/571,480	:	PARTICIPATE IN PATENT
Filed: April 22, 2008	:	PROSECUTION HIGHWAY PILOT
Attorney Docket No. **058161-000024USPX**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 5, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the CIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the CIPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the CIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the CIPO application(s) containing the allowable/patentable claim(s); and
(6) Applicant must submit an IDS listing the documents cited by the CIPO examiner in the CIPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH pilot program and petition is deficient as follows:

It is not clear whether petitioner has complied with item 2 and 3 above. It does not appear that the petition includes a copy of allowable/patentable claim(s) from the CIPO application (CA 2,567,076). In response to this decision, Requestor should provide a copy of allowable/patentable claim(s) from CA 2,567,076 application.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Any response must be submitted via EFS-web.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/571,480	04/22/2008	Arokia Nathan	058161-000024USPX	5464

70001 7590 11/18/2010
NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
11/18/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO IL 60606-6613

In re Application of	:	
NATHAN, AROKIA, et al.	:	DECISION ON REQUEST TO
Application No. 11/571,480	:	PARTICIPATE IN PATENT
Filed: April 22, 2008	:	PROSECUTION HIGHWAY PILOT
Attorney Docket No. **058161-000024USPX**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request for reconsideration to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed October 27, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the CIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the CIPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the CIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the CIPO application(s) containing the allowable/patentable claim(s); and
(6) Applicant must submit an IDS listing the documents cited by the CIPO examiner in the CIPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH pilot program and petition now comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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MAR 22 2012

OFFICE OF PETITIONS

In re Application of :
Stromereder et al. :
Application No. 11/571,500 : ON PETITION
Filed: December 29, 2006 :
Attorney Docket No. 4391-703-CON :
For: GAS-MONITORING ASSEMBLY COMPRISING ONE OR MORE GAS SENSORS AND ONE OR MORE GETTERS, AND METHOD OF USING SAME

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2012, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed November 1, 2011, which set a two month shortened statutory period for reply. No reply being received in the Office, this application became abandoned on January 2, 2012. A Notice of Abandonment was mailed on February 3, 2012.

Applicants have submitted a proper reply to the November 1, 2011 Notice in the form of a corrected drawing of Figure 12, an acceptable statement of the unintentional nature of the delay in responding to the November 1, 2011 Notice, and the $1,860.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

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.

After the mailing of this decision, the file will be returned to the Office of Data Management.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: KELLY K. REYNOLDS
HULTQUIST IP
P.O. BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Benjamin Alan Kerr Murray, et al. :
Application No.: 11/571,549 :
Filed: June 17, 2008 :
Attorney Docket No.: DYOUP0328US :

ON PETITION

This is a decision on the petition, filed January 13, 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 20, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2628 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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SILVER SPRING MD 20910

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In re Application of	:	
Peter WOLFS	:	
Application No. 11/571,603	:	DECISION ON PETITION
Filed: February 21, 2007	:	
Attorney Docket No. 5924	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 18, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of February 18, 2009 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2838 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOHN P. WARD**
GREENBERG TRAURIG, LLP
1900 UNIVERSITY AVENUE, FIFTH FLOOR
EAST PALO ALTO, CA 94303

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OCT 27 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,648,992	:	DECISION ON
Gabos, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: January 19, 2010	:	AND NOTICE OF INTENT
Application No. 11/571,637	:	TO ISSUE
Filed: January 4, 2007	:	CERTIFICATE OF
Attorney Docket No. 06275-0528US1	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF NOTICE CONCERNING IMPROPER CALCULATION OF PATENT TERM ADJUSTMENT BASED UPON USPTO IMPROPERLY MEASURING REDUCTION PERIOD UNDER 37 C.F.R. § 1.704(C)(10)", filed June 17, 2010. Patentees request that the patent term adjustment indicated on the patent be corrected from one hundred seventy-four (174) days to two hundred seventeen (217) 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 **two hundred seventeen (217)** days.

On January 19, 2010, the above-identified application matured into U.S. Patent No. 7,648,992. Applicants timely filed an application for patent term adjustment under 37 CFR 1.705(d) on February 26, 2010. The Office mailed a decision on May 17, 2010. The decision stated that the correct patent term adjustment was one hundred seventy-four (174) days.

Patentees assert that they should not have been assessed applicant delay of fifty-one (51) days for the submission of a "Request for Corrected Filing Receipt" on November 30, 2009, after the Notice of Allowance was mailed on August 31, 2009. Rather, Patentees assert that they should have only been assessed applicant delay of eight (8) 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, the Office mailed a Corrected Filing Receipt on December 7, 2009. Accordingly, Applicants should have been accorded 8 days of delay for the filing of the "Request for Corrected Filing Receipt".

In view thereof, the correct determination of PTA at the time of issuance is two hundred seventeen (217) days (228 (213+15) days of PTO delay and 11 (3+8) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e), previously paid on February 22, 2010, 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 **two hundred seventeen (217)** 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

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,648,992 B2

DATED : **January 19, 2010**

INVENTOR(S) : Gabos 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 days.

Delete the phrase "by 159 days" and insert – by 217 days--

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1300 19TH Street, N.W.,
Suite 600
Washington, DC 20036

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NOV 18 2010

PCT LEGAL ADMINISTRATION

In re Application of
DIOMELLI, Giuseppe
U.S. Application No.: 11/571,685
PCT No.: PCT/IB2004/002262
Int. Filing Date: 06 July 2004
Priority Date: None
Attorney Docket No.: 53091
For: METHOD AND APPARATUS FOR EFFECTING TELECOMMUNICATIONS AND MULTIMEDIA COMMUNICATIONS . . .

DECISION

This decision is in response to the request for a corrected filing receipt filed on 06 November 2008 and again on 26 January 2010 which are treated under 37 CFR 1.181 and **GRANTED** as follows:

Applicant claims that the declaration and surcharge fee was filed on 13 February 2010. As such, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements on the Form PCT/DO/EO/903 and the "Filing or 371(c) Date" on the filing receipt mailed 15 April 2008 should be recorded as 13 February 2010.

A postcard 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. *See* MPEP § 503.

Applicant provided a copy of the date-stamped postcard receipt for documents submitted 13 February 2008. The name of the applicant, and the application number are listed on the postcard receipt. The postcard indicates that a declaration and surcharge fee was received in the USPTO. The postcard is stamped "OIPE FEB 13 2008" across its face. USPTO financial records also note that the $65.00 surcharge fee and $40.00 assignment recordation fee was received on 13 February 2008.

Accordingly, applicant has provided *prima facie* evidence that the declaration was received by the USPTO on 13 February 2008.

The Form PCT/DO/EO/903 and filing receipt mailed 15 April 2008 are both **VACATED**.

This application is being forwarded to the DO/EO/US for mailing a corrected Form

PCT/DO/EO/903 and filing receipt with a completion of all 35 U.S.C. 371 requirements of 13 February 2008.

The application will then be forwarded to Technology Center 2457 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Paper No.

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OFFICE OF PETITIONS

Tod T. Tumey
P.O. BOX 22188
HOUSTON TX 77227-2188

In re Application of	:	
Howard Stapleton	:	
Application No. 11/571,686	:	DECISION ON PETITION
Filed: July 27, 2007	:	PURSUANT TO
Attorney Docket No. 1010-01100	:	37 C.F.R. § 1.181(A)
Title: SECURITY SYSTEM FOR A	:	
BOUNDARY	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181, filed on September 16, 2010.

Receipt of the concurrently submitted issue and publication fees is acknowledged.

BACKGROUND

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 April 5, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on July 6, 2010. A Notice of Abandonment was mailed on July 19, 2010.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

> (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 after a reasonable amount of time has elapsed

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

> 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.

ANALYSIS

With this petition, Petitioner has alleged that a response was timely filed on July 6, 2010 (it is noted that July 5, 2010 fell on a federal holiday). Petitioner has further included a copy of this response (form PTOL-85b, which indicates that a check was enclosed to cover the issue and publication fees), and it is noted that it contains a certificate of mailing, executed by Petitioner and dated July 6, 2010.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this 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 withdrawal of the holding of abandonment 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.[3] 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

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3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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APR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Roger Victor Bonnert, et al.	:	
Application No. 11/571,707	:	DECISION GRANTING PETITION
Filed: January 5, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 06275-534US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, April 13, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,022,248
Issued: September 20 2011
Application No. 11/571,707
Filed: January 5, 2007
Attorney Docket No. 06275-0534US1 / 101

: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 21, 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 1001 to 1190 days.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ONE THOUSAND FIFTY-TWO 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 20, 2011, the above-identified application matured into U.S. Patent No. 8,022,248 with a patent term adjustment of 1001 days. On November 21, 2011, Patentees submitted the instant application.

Patentees dispute the reduction of 83 days for the response filed September 3, 2010. The USPTO mailed a non-Final Office Action to the applicants on March 12, 2010, setting a shortened statutory period of three months to reply. The three month response date fell on June 12, 2010 which was a weekend. The applicants filed a response to the Office Action on September 3, 2010, and argues that the period of delay should be calculated from June 14, 2010, the next business day.

In Arqule v. Kappos, _ F.Supp.2d _ (D.D.C. 2011), the District Court of the District of Columbia ruled that the 35 U.S.C. § 21 (b) "weekend and holiday" exception applies to

"any action" including the § 154(b)(2)(C) Accordingly, because June 12, 2010 was a weekend, the time period to calculate Applicant delay commenced on June 14, 2010 rather than June 12, 2010. Therefore, a delay of 83 days was accrued, corresponding to the time period between June 12, 2010 (three months after the mailing date of the Office Action, in accordance with 37 CFR §1.704(b)) and September 3, 2010. Applicants respectfully request the Office to remove the 83 days of Applicant delay and correct the total Applicant delay from 83 days to 81 days as it relates to 37 CFR §1.704(b)).

The reduction is being reconsidered and, based upon the decision in the Arqule case, it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted.

Thus, instead of a 83 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 81 days should have been accorded for applicant delay. Accordingly, the period of reduction of 83 days is being removed and a period of reduction of 81 days is being entered.

Patentees dispute the reduction of 49 days for filing of a "RESPONSE TO NOTICE OF ALLOWANCE", a coversheet accompanying te payment of the issue fee. The filing of this paper should not have reduced the PTA days. The patent issuing from this application is not subject to a terminal disclaimer.

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 April 13, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 138 day period from April 13, 2011 (the mailing date of the Notice of Allowance) until September 20, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 138 days and be increased from 462 to 600 days.

Patentee concludes that the correct patent term adjustment is 1190 days (the sum of 671 days of "A delay" and 600 days of "B delay" minus 81 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:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
or
(ii) Four months;

The 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

A review of the application record confirms that the reduction of ninety-three (49) days was based on the filing of the RESPONSE TO NOTICE OF ALLOWANCE. Such a paper is not identified as one of the papers the filing of which the Director has specifically deemed not to be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704 (c) (10). Thus, it is concluded that the reduction of forty-nine (49) days is not warranted.

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 462 days based on the application having been filed under 35 U.S.C. 371(b) or (f), the national stage having commenced January 5, 2007 and the patent not having issued as of the day after the three year date, January 5, 2010, and a request for continued examination under 132(b) having been filed on April 13, 2011. In other words, the 138-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

[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.

continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term

cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until 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.

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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.

See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the

request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on May 6, 2011 and the patent issued by virtue of that request on September 20, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 6, 2011 and ending on September 20, 2011 is not included in calculating Office delay.

CONCLUSION

As such, the patent term adjustment is 1052 days (671 "A delay" days plus 462 "B delay" days minus 81 Applicant delay days), not 1190 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.

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand fifty-two (1052)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,022,248 B2

DATED : September 20, 2011

INVENTOR(S) : Roger Victor Bonnert

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 (1001) days

Delete the phrase "by 1001 days" and insert – by 1052 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 27 2011

PCT LEGAL ADMINISTRATION

PHARMACIA CORPORATION
c/o Pfizer Inc.
Eastern Point Road, MS9114
Groton CT 06340

In re Application of :
CREA, Roberto :
Application No.: 11/571,710 :
PCT No.: PCT/US2005/024002 : DECISION
Int. Filing Date: 06 July 2005 :
Priority Date: 06 July 2004 :
Attorney's Docket No.: PC33163 :
For: UNIVERSAL ANTIBODY LIBRARIES:

This is a decision on applicants' renewed petition under 37 CFR 1.137(b) and request under 37 CFR 1.497(d), filed with the United States Patent and Trademark Office on 22 February 2011.

BACKGROUND

On 18 February 2010, the Office mailed Decision dismissing applicants' petition to revive the above application and stating it remained abandoned.

On 26 January 2011, the Office mailed Notification of Abandonment, advising applicants that the application went abandoned for failure to timely respond to the Notification of Missing Requirements mailed 12 February 2008.

On 22 January 2011, applicants filed renewed petition to revive under 37 CFR 1.137(b) and request under 37 CFR 1.497(d).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (3) and (4) have been satisfied. The statement has been made. Further, applicant has explained that the further delay in responding to the earlier decision on petition

was because they did not receive the 18 February 2010 decision. The petition fee has been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (2) has now been satisfied. The required reply, which includes a declaration in compliance with 37 CFR 1.497(a)-(b), has not been furnished as the Request Under 37 CFR 1.497(d) is not grantable.

Request Under 37 CFR 1.497(d)

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) and request under 37 CFR 1.497(d) are **GRANTED**.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120320

DATE : March 20, 2012

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 8019319

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/JINSONG HU/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
DEC 03 2010
OFFICE OF PETITIONS

In re Application of	:	
Masateru Ichikawa et al	:	
Application No. 11/571,821	:	DECISION GRANTING PETITION
Filed: January 8, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q99443	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 2, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 24, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2841 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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Alexandria, VA 22313-1450
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Emisphere Technologies, Inc.
240 Cedar Knolls Road
Suite # 200
Cedar Knolls NJ 07927

MAILED

APR 05 2011

PCT LEGAL ADMINISTRATION

In re Application of DINH et al. Application No.: 11/571,862 PCT No.: PCT/US2005/024599 Int. Filing Date: 12 July 2005 Priority Date: 12 July 2004 Atty. Docket No.: 01946/1201624-US1 For: COMPOSITIONS FOR DELIVERING PEPTIDE YY AND PYY AGONISTS	:	DECISION ON PETITION UNDER 37 CFR 1.181 & 37 CFR 1.137(b)

This decision is issued in response to applicant's "Response to Missing Requirements under 35 U.S.C. 371 to with Petition to Withdraw Holding of Abandonment 37 CFR 1.181 or in the Alternative with Petition to Revive under 37 CFR 1.137(b) by Response to Notice Mailed to Former Agent on May 14, 2009" filed 01 July 2009, which is being treated as a Petition under 37 CFR 1.181 and 37 CFR 1.137(b).

BACKGROUND

On 12 July 2005, applicant filed international application no. PCT/US2005/024599 which claimed a priority date of 12 July 2004. 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, 12 January 2007.

On 09 January 2007, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 07 June 2007, Emisphere Technologies, Inc. filed a "Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address."

On 21 July 2008, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b)

together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 14 May 2009, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 21 July 2008 within the time period set therein.

On 01 July 2009, applicant filed "Response to Missing Requirements under 35 U.S.C. 371 to with Petition to Withdraw Holding of Abandonment 37 CFR 1.181 or in the Alternative with Petition to Revive under 37 CFR 1.137(b) by Response to Notice Mailed to Former Agent on May 14, 2009" considered herein.

DISCUSSION

A. Request to Change of Correspondence Address

Petitioner states that the application was abandoned in error, in that, applicant submitted a Change of Correspondence form to the USPTO in June 2007. A review of the image file wrapper reveals that the "Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address" (Form PTO/SB/82) is located therein. However, 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. Here, there was no Statement under 37 CFR 3.73(b) submitted on 07 June 2007, thus, the Office could not change the correspondence address to the requested customer number.[1]

B. Petition to Withdraw Holding of Abandonment under 37 CFR 1.181

The Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) and Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) were mailed to the firm of record, Emisphere Technologies, Inc., c/o Darby & Darby P.C., P.O. Box 770, Church Street Station, New York, New York 10008-0770.

The petition asserts that applicant did not receive the Notifications because it was sent to the former agent. A review of the written record indicates that the Notifications were addressed to the correspondence address on file as of 21 July 2008 and 14 May 2009 and indicates no irregularity in the mailing of the Notifications. In the absence of any irregularities there is a strong presumption that the Notifications were properly mailed to the address of record and this presumption may be overcome by a showing that the Notification(s) was not in fact received. The showing required to establish the failure to

[1]The postcard receipt presented with the present petition will not serve as prima facie evidence that a "Statement under 3.73(b)" was submitted since it was not listed thereon.

receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner states in their present petition that, "Emisphere Technologies, Inc. did not receive either the Missing Requirements or the Notification of Abandonment from the USPTO or (the law firm of) Darby & Darby." Petitioner has attested that the Office action was not received by the practitioner and that a search of the file jacket and docket records indicates that the Notification of Missing Requirements was not received. However, petitioner has failed to provide evidence that the Notifications were not received at the Church Street Station address detailed above.

Thus, applicant has not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

C. Petition to Revive Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the declaration of inventorship.

As to Item (2), the appropriate petition fee as required by 37 CFR 1.17 has been submitted.

With respect to item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment under

37 CFR 1.181 is **DISMISSED** without prejudice.

The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JUL 29 2011

PCT LEGAL ADMINISTRATION

Senniger Powers LLP (KVPH)
100 North Broadway, 17th Floor
St. Louis MO 63102

In re Application of CUCA et al.	:	
Application No.: 11/571,863	:	DECISION ON PETITION
Filing: 09 January 2007	:	
Attorney Docket No.: 718689.141	:	UNDER 37 CFR 1.78(a)(6)
For: DELIVERY SYSTEM	:	

This decision is issued in response to applicant's "Petition In Accordance with 37 CFR 1.78(a)(6)" filed 04 May 2011, to accept an unintentionally delayed claim under 35 U.S.C. §119 for the benefit of priority to the prior-filed international application set forth in the concurrently filed Supplemental Application Data Sheet.

Such petition is hereby **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition under must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e)and 37 CFR 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)(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.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed international application has been included in the Supplemental Application Data Sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed international application under 37 CFR 1.78(a)(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.§119(c) and 37 CFR §1.78 must be met. Similarly, the fact that any Filing Receipt includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed application noted thereon. 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 Cynthia M. Kratz at (571) 272-3286.

This matter is being referred to Technology Center Art Unit 3763 for appropriate action.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

12/20/2010

Patent No. :7834187
Inventor(s) :Bush, Julie Kay
Issued :11/16/2010
Title :A CRYSTALLINE VARIABLE HYDRATE OF (S)-6-(4(2-((3-9H-Carbazol-4-Yloxy)-2-Methylpropyl)Phenoxy)-3-Pyridinecarbox Amide Hemisuccinate Salt
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent the reveals that col.1 line 5,7,and 11 and col.2 line 2, & 10 is printed in accordance with the record please show evidence of supporting data or amendment or pay the $100. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

Eli Lily and Company
P.O. BOX 6288
Indianapolis, In 46206-6288

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 19 2011

OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW
GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

In re Patent No. 7,701,814	:	DECISION ON
Hidetoshi Kabasawa	:	PATENT TERM ADJUSTMENT
Issue Date: April 20, 2010	:	AND NOTICE OF INTENT
Application No. 11/571,870	:	TO ISSUE
Filed: January 9, 2007	:	CERTIFICATE OF
Attorney Docket No. 900187.429USPC	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed May 25, 2010. Patentee requests that the patent term adjustment indicated on the patent be corrected from four hundred fifty-three (453) days to five hundred seventy-three (573) days.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred fifty-two (552)** days.

On April 20, 2010, the above-identified application matured into U.S. Patent No. 7,701,814. The patent issued with a patent term adjustment of four hundred fifty-three (453) days. The Office determined a patent term adjustment of 453 days based upon 472 days of PTO delay under 37 CFR 1.703(a)(1), and 101 days of PTO delay under 37 CFR 1.703(b), reduced by 120 days of applicant delay pursuant to 37 CFR 1.704(c)(10). Patentee timely filed the instant application for patent term adjustment under 37 CFR 1.705(d) on May 25, 2010.

Patentee argues that he should not have been assessed applicant delay of one hundred twenty (120) days for the submission of a "Request to Retrieve Electronic Priority Application" on July 16, 2009, after the Notice of Allowance was mailed on June 24, 2009. According to Patentee, he submitted priority documents on filing, as evidenced by the Office's acknowledged submission of priority documents in the "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495", mailed on May 23, 2007. However, the Notice of Allowability mailed June 24, 2009 indicated that "none of the certified priority documents have been received." Accordingly, patentee argues that he did not fail to engage in reasonable efforts to conclude prosecution of the application by filing the "Request to Retrieve Electronic Priority Application" on July 16, 2009. This request authorized the Office to retrieve Japanese application No. 2004-204778 from the JPO.

On filing, Applicant made a claim of domestic priority to PCT Application No. PCT/JP2005/008591, and a claim of foreign priority to Japanese application No. 2004-204778. However, a review of the application reveals that while Applicant included a certified copy of the PCT/JP2005/008591 application, applicant did not include a certified priority document of Japanese application No. 2004-204778. Accordingly, it is concluded that applicant was properly assessed delay pursuant to 37 CFR 1.704(c)(10) due to the filing of the "Request to Retrieve Electronic Priority Application" on July 16, 2009.

However, the assessment of one hundred twenty (120) days of delay under 37 CFR 1.704(c)(10) was not warranted. 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, the Office mailed a Priority Acknowledgment on August 5, 2009. Accordingly, Applicants should have been accorded twenty-one (21) days of delay for the filing of the "Request to Retrieve Electronic Priority Application", not one hundred twenty (120) days.

In view thereof, the correct determination of PTA at the time of issuance is five hundred fifty-two (552) days (573 (472+101) days of PTO delay reduced by 21 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §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 **five hundred fifty-two (552)** 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

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,701,814 B2

DATED : **April 20, 2010**

INVENTOR(S) : Kabasawa 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 453 days.

Delete the phrase "by 453 days" and insert – by 552 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110413

DATE : March 31, 2011

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 7879929

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:

/HAROLD Y PYON/
Supervisory Patent Examiner.Art Unit 1761

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

MAILED
MAR 20 2012
OFFICE OF PETITIONS

In re Application of	:	
Barras et al.	:	
Application No. 11/571,920	:	DECISION ON PETITION
Filed: January 10, 2007	:	
Attorney Docket No. 21029-00315-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, August 3, 2011, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 7, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $930.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center AU 3753 for processing of the Request for Continued Examination under 37 CFR 1.114 and the amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: David M. Morse
1007 North Orange Street, P.O. Box 2207
Wilmington, DE 19899-2207

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/20/2009

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No 11/571,944.: 7,576144

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

D. Wu — **SPE**

1762 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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HESLIN ROTHENBERG
FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

MAILED

JUL 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,856,718 :
Issue Date: 28 December, 2010 :
Application No. 11/571,984 : ON PETITION
Filed: 11 January, 2007 :
Attorney Docket No. 2771.012 :

This is a decision on the petition filed on 14 March, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment on 23 August, 2007, and the location of recordation as Reel/Frame 019751/0220.

Petitioner requests issuance of a certificate of correction the identification of the first Assignee(s) to "**ADVANCED FIBER TECHNOLOGIES (AFT) TRUST (Montreal, Quebec, Canada)**" 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. 7,856,718
Application No. 11/571,984

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.

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED
NOV 22 2011
OFFICE OF PETITIONS

In re Application of :
Alan E. Nash :
Application No. 11/572,044 : DECISION ON PETITION
Filed: January 12, 2007 :
Attorney Docket No. **10318** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jeffrey S. Bernard appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Jeffrey S. Bernard 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 Jeffrey S. Bernard the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 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 $930, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3751 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: **Jeffrey S. Bernard**
Shumaker, Loop & Kendrick, LLP
First Citizens Bank Plaza
128 South Tryon Street
Suite 1800
Charlotte, NC 28202-5013

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

MAILED
MAY 12 2011
OFFICE OF PETITIONS

In re Application of :
Adrian S. Eckert, et al. :
Application No. 11/572,051 : ON PETITION
Filed: January 12, 2007 :
Attorney Docket No.: 59576US004

This is a decision on the petition, filed, April 4, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the second assignee was not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that 3 M Innovative Properties Company and 3 M ESPE AG 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.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. 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 after issuance of this application into a patent.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST PAUL MN 55133-3427

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Bissinger, et al.	:	
Application No. 11/572,056	:	ON PETITION
Filed: January 12, 2007	:	
Attorney Docket No. 59577US005	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 18, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed June 15, 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 September 16, 2010. The Office mailed a Notice of Abandonment on January 18, 2011.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 1762 for consideration of the Amendment, filed February 18, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-23-11

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/572056 Patent No.: 8003711

CofC mailroom date: 09-15-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

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 [signature] **Art Unit** 1762

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/11/11

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 11572069 Patent No.: 7915324

CofC mailroom date: 08/01/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: _

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

SPE: 8 W4 AU: 1762

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,662,869	:	
Application No. 11/572,071	:	
Filed: January 12, 2007	:	ON PETITION
Issued: February 16, 2010	:	
Attorney Docket No. 59580US005	:	

This is a decision on the petition filed February 18, 2010 and October 30, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Petitioner submitted the $130.00 requisite surcharge fee and $100.00 Certificate of Correction fee on both October, 30, 2009 and February 18, 2010, when only one payment is necessary. Accordingly, the total refund of $230.00 will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

1 6 SEP 2010

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GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL QC H3A 3H3
CANADA

In re Application of RAYMOND, Yves, et al. Application No.: 11/572,170 PCT No.: PCT/CA2005/001108 Int. Filing Date: 15 July 2005 Priority Date: 16 July 2004 Attorney's Docket No.: 765/12810.247 For: METHODS OR USE OF LAMIN B1 NUCLEAR ANTIGEN, FRAGMENTS AND COMPOSITIONS THEREOF, FOR INHIBITING OR REDUCING A THROMBOTIC EVENT	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision corrects the 03 June 2010 Petition Decision. The decision should have indicated it was adding Nathalie Brassard as an inventor, not deleting her.

BACKGROUND

On 29 October 2009, the Office mailed Decision On Request Under 37 CFR 1.497(d), refusing applicants' request.

On 22 December 2009, applicant filed this renewed request under 37 CFR 1.497(d).

DISCUSSION

Applicants file this request to add Nathalie Brassard, as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **GRANTED**.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO TX 75024

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of **LULLA,** Amar et al. Application No. 11/572,175 Filed: July 02, 2007 Attorney Docket No. CRT/24103 US (4137-01900)	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 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 March 12, 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) was obtained. Accordingly, the date of abandonment of this application is September 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-4231.

This application is being referred to Technology Center AU 1628 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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date : 3/21/11
Patent No. : 7,829,279 B1
Serial No. : 11/572,201
Inventor(s) : Delgado-Escueta et al.
Issued : November 9, 2010
Title : **COMPOSITIONS AND METHODS FOR DIAGNOSIS AND TREATMENT OF EPILEPSY**
Docket No. : **26744-14182**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A petition is required to correct the Assignee, under 37 CFR 1.183, and should include: (1) the petition fee set forth in 37 CFR 1.117(h) (currently $130); (2) the correct name and address of the assignee; (3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of

Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, *LIE*
ernest.white@uspto.gov
(571) 272-3385
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

ecw

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,829,279 :
Issue Date: November 9, 2010 :
Application No. 11/572,201 : ON PETITION
Filed: January 16, 2007 :
Attorney Docket No. 26744-14182 :

This is a decision on the petition filed June 7, 2011, which is being 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 **DISMISSED**.

Petitioner requests a Certificate of Correction in the name of "Riken, U.S. Government Represented by the Department of Veterans Affairs, National Institutes of Health (NIH), U.S. Dept. of Health and Human Services (DHHS) U.S. Government and Instituto Nacional de Neurologia Y Neurocirugia Manuel Velasco Suarez"

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

A review of the Office assignment records does not indicate that National Institutes of Health (NIH), U.S. Dept. of Health and Human Services (DHHS) U.S. Government is an assignee of record. Accordingly, as the request does not comply with the provisions of 37 CFR 3.81(b) the request for Certificate of Correction cannot be granted until the proper assignees of record are specified.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Petitioner should note that the Certificate of Correction processing fee of $130 is necessary and should be submitted with any subsequent request.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Internet: EFS-Web[2]

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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In re Patent No. 7,829,279 :
Application No. 11/572,201 :
Filed: January 16, 2007 : ON PETITION
Issued: November 9, 2010 :
Attorney Docket No. 26744-14182 :

This is a decision on the renewed petition filed October 14, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the names of the three assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner requests that the assignee names be corrected on the above-identified patent by adding the additional assignee names of - - RIKEN (JP) - - ; -- U.S. GOVERNMENT REPRESENTED BY THE DEPARTMENT OF VETERANS AFFAIRS --; and -- INSTITUTO NACIONAL DE NEUROLOGIA Y NEUROCIRUGIA MANUEL VELASCO SUAREZ, A NATIONAL INSTITUTE OF HEALTH OF MEXICO (MX) -- .

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee ***but prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that the most current assignment recorded May 15, 2009, Reel 022691 and Frame 0893 states the third assignee's name as "INSTITUTO NACIONAL DE NEUROLOGIA Y NEUROCIRUGIA MANUEL VELASCO SUAREZ". Petitioner has submitted the name of "INSTITUTO NACIONAL DE NEUROLOGIA Y NEUROCIRUGIA MANUEL VELASCO SUAREZ, A NATIONAL INSTITUTE OF HEALTH OF MEXICO (MX)".

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Accordingly, since petitioner is requesting a correction of the name of an assignee that has not yet been submitted for recordation to the Assignment Branch, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED
JAN 24 2012
OFFICE OF PETITIONS

In re Patent No. 7,829,279 :
Application No. 11/572,201 :
Filed: January 16, 2007 : ON PETITION
Issued: November 9, 2010 :
Attorney Docket No. 26744-14182 :

This is a decision on the renewed petition filed January 17, 2012, which is being treated as a request under 37 CFR 3.81(b)[1] to add the names of the three assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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JAN 11 2011

OFFICE OF PETITIONS

SANTANGELO LAW OFFICES, P.C.
125 SOUTH HOWES, THIRD FLOOR
FORT COLLINS CO 80521

In re Application of	:	
Robert T. Barnet, et al.	:	
Application No. 11/572,203	:	DECISION ON PETITION
Filed: January 16, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. TBC-Air-Placement USNP	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the attorney of record, declaring that he/she is in possession of evidence, and will retain such in the application file record, showing that the inventor, Robert T. Barnet is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3633 for action on the merits commensurate with this decision.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/572,236	01/17/2007	Dilip Prasad	60469-114 PUS1	5694

64779 7590 02/01/2012
CARLSON GASKEY & OLDS
INTELLECTUAL PROPERTY DEPARTMENT
400 W MAPLE STE 350
BIRMINGHAM, MI 48009

EXAMINER
KRUER, STEFAN

ART UNIT	PAPER NUMBER
3654	

MAIL DATE	DELIVERY MODE
02/01/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FEB - 1 2012

CARLSON GASKEY & OLDS
400 W MAPLE STE 350
BIRMINGHAM MI 48009

In re Application of	:	
Dilip PRASAD et al.	:	DECISION ON PETITION
Application No. 11/572,236	:	UNDER 37 CFR §1.181
Filed: January 17, 2007	:	
For: SHEAVE FOR USE IN	:	
AN ELEVATOR SYSTEM	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed May 13, 2011 to request the withdrawal of the objection to the specification as set forth in the final Office action mailed on March 15, 2011.

The petition is **GRANTED.**

A review of the record reflects that in the Office action mailed on March 15, 2011 the examiner objected to the specification on the grounds that the specification appears contradictory on lines 9 and 13 of page 2. The examiner finds the disclosure "n is a number greater than 2" and "where n is any number" to be contradictory. This objection was previously made in the Office action mailed on November 17, 2009.

In the petition, applicants argue that page 2 of the specification discloses three different examples of surface profile of a sheave element: The first paragraph (lines 5-9) refers to a sheave having a surface profile defined by an equation that approximates an nth degree polynomial, where n is a number greater than 2. The second paragraph (lines 10-15) sets forth a second embodiment of a sheave having a surface profile defined by an nth degree polynomial where n can be any number. The third paragraph (in lines 16-20) sets forth yet another example of a sheave surface profile. Applicants contend that there is no basis for the objection to the specification since each of the three paragraphs on page 2 of the specification "describes a different example of sheave configuration, there is no contradiction when one of them has a feature that is different than a feature of another one of them."

they failed to show a surface profile defined as the equation $y=x^n$, that the surface profiles as depicted appear to be linear and quadratic in sections whereas the quadratic sections appear to be better defined by $y=mx^n$, and that the drawings fail to show the width of the

central portion 42 that is equal to the difference between the width w of the belt 24 and the width c of the belt guiding surface 26" as described on page 4 of the specification. Applicant filed a response on July 1, 2009 amending some claims and part of the specification to overcome one issue of the drawing objection while traversing the rest of the drawings objection as well as the cross referencing requirement. The drawing objection and the cross reference requirement were again made in the final Office action mailed on November 17, 2009.

MPEP 608.01 states that "*The specification is a written description of the invention and of the manner and process of making and using the same. The specification must be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention pertains to make and use the same. See 35 U.S.C. 112 and 37 CFR 1.71.*"

In the "Detailed Description of the Preferred Embodiments" section of the written disclosure, applicants describe on page 3 the surface profile in figure 2 as "*approximated by a higher order polynomial equation. This equation may be expressed as* $y=|x^n|$ *where n is a number greater than 2, y is along an axis perpendicular to the sheave axis of rotation 34 and x is a distance measured from a reference point 40 on the belt guiding surface 26 in a direction parallel to the sheave axis of rotation.*"

A different surface profile is shown in figure 3 and described on lines 27-34 in page 3 and lines 1-11 in page 4 of the written disclosure. In this embodiment, the written disclosure indicates that "*the width w of the belt 24 is greater than one-half the width c of the belt guiding surface 26, the surface profile preferably includes a flat central portion 42....Side portions 44 and 46 of the surface profile preferably extend between the central portion 42 and the edges 28 and 30 of the belt guiding surface, respectively. Each of the side portions 44 and 46 preferably is approximated by the equation* $y=x^n$ *where n is any number... A crown design as shown in Figure 3 preferably is flat along the section of the top of the crown that cannot be accessed by the trailing edge of the belt 24. The width of the central portion 42 preferably is equal to the difference between the width w of the belt 24 and the width c of the belt guiding surface 26.*"

A third surface profile is shown in figure 4 and described on lines 12-33 in page 4 of the written disclosure: "*Figure 4 illustrates another example where the belt guiding surface 26 has a central portion 42 that is aligned parallel with the sheave axis of rotation 34. First side portions 44 and 46 extend away from opposite sides of the central portion 42. In this example, the first side portions 44 and 46 have a profile described by an* n^{th} *order polynomial, where n is any number.*"

It is clear from the written disclosure that the phrase *"n is a number greater than 2"* is specific to the convex surface profile shown in figure 2, and the phrase *"where n is any number"* is specific to the side portions of a surface profile that includes a central portion and side portions on opposite sides of the central portion that is shown in either figure 3 or figure 4. The written description is clearly in compliance with MPEP 608.01 cited above.

Applicants' argument is persuasive. The objection to the specification made in the final Office action mailed on March 15, 2011 is hereby withdrawn.

This application will be forwarded to the examiner for further action on the merits consistent with the decision herein.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at 571-272-6867.

David L. Talbott, Director
Technology Center 3600
571-272-5150

lm: 1/25/12

LM

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OFFICE OF PETITIONS

SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

In re Application of	:	
Di, et al.	:	
Application No. 11/572,286	:	ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. 21.1125	:	

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.

The application became abandoned July 13, 2010 for failure to timely submit a proper reply to the final Office action mailed April 12, 2010. No petition for extension of time for reply was filed. Notice of Abandonment was mailed November 16, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3672 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID A. GUERRA
INTERNATIONAL PATENT GROUP, LLC
Suite 700
1816 Crowchild Trail N.W.
CALGARY AB T2M 3Y7 CA CANADA

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Murphy : DECISION ON PETITION
Application No. 11/572,336 :
Filed: January 19, 2007 :
Atty. Dkt. No.: AP132-06 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2010.

The petition is **GRANTED**.

This application became abandoned August 18, 2010 for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed June 17, 2010. The Notice set a two month statutory period of time for reply. Notice of Abandonment was mailed September 8, 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 has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

PARTICIPATION IN THE PCT-PPH PILOT PROGRAM

Application No.:	11/572,343
First Named Inventor:	LIVCHAK, ANDREY

II. Updated Claims Correspondence Table reflecting changes with amendment filed 9/24/10. See Original Claims Correspondence Table for further information.

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1-7		Canceled.
8	8	Rewritten to depend from claim 14.
9	9	Rewritten to depend from claim 14.
10	10	Rewritten to depend from claim 14.
11		Canceled.
12		Canceled.
13	7	U.S. Claim 13 has been rewritten in independent form by incorporating the features of base U.S. Claim 7. U.S. Claim 13 is thus the same as PCT Claim 7 with the additional recitation "[first and second jets generated] from an identical source of air" and "wherein said jet generator is further configured to generate a combination of said first and second jets at said lower edge on forward and lateral sections thereof such that the first jets on the forward section are perpendicular to the first jets on the lateral sections."
14	7	U.S. Claim 14 has been rewritten in independent form by incorporating the features of base U.S. Claim 7. U.S. Claim 14 is thus the same as PCT Claim 7 with the additional recitation "[first and second jets generated] from an identical source of air" and "wherein said first jet is a planar jet and said second jet is a planar jet."
15		Canceled.
16	7	U.S. Claim 16 is the same as PCT Claim 7 with the recitations of U.S. Claim 14 noted above and the additional recitation of "wherein said first and second jets are defined in pairs proximal to each other."
17	7	U.S. Claim 17 is the same as PCT Claim 7 with the recitations of U.S. Claim 14 noted above and the additional recitation of "wherein said first and second jets emanate from a plenum."
18	7	U.S. Claim 18 is the same as PCT Claim 7 with the recitations of U.S. Claim 14 noted above and the additional recitation of "wherein the hood portion lower edge has corners at respective ends thereof, the corners being beveled or curved, and the first jets are directed perpendicular to said lower edge."
19	7	U.S. Claim 19 is the same as PCT Claim 7 with the recitations of U.S. Claim 14 noted above and the additional recitation of "further comprising a wall, wherein the lower edge is a straight edge located opposite the wall."
20	7	U.S. Claim 20 is the same as PCT Claim 7 with the recitation in U.S. Claim 19 of "further comprising a wall, wherein the lower edge is a straight edge located opposite the wall" and the additional recitation of "further comprising side skirts on lateral sides of the hood portion."
21	7	U.S. Claim 21 is the same as PCT Claim 7 with the additional recitations of "wherein said jet generator is further configured to generate a combination of said first and second jets at said lower edge on forward and lateral sections thereof such that the first and second jets surround the recess on at least three full sides, and said first jet is a planar jet and said second jet is a planar jet."

22	7	U.S. Claim 22 is the same as PCT Claim 7 with the recitations of U.S. Claim 13 noted above and the additional recitation of "wherein said first jet is directed toward and directly into said hood portion recess."
23	7	U.S. Claim 22 is the same as PCT Claim 7 with the recitation of U.S. Claim 14 noted above and the additional recitation of "wherein said first jet is directed toward and directly into said hood portion recess."
24	7	The changes between U.S. Claim 24 and PCT Claim 7 are shown in the marked version below: A fume hood, comprising: a hood portion connectable to an exhaust system and having a recess, the recess having ~~and~~ a lower edge ~~therearound~~, the hood portion being configured to cover a fume source; the recess having an open end at the lower edge, a closed end opposite the open end, and an interior space; an exhaust intake opening to the interior space on a first side of the recess, the exhaust intake being covered by a filter thereby forming a portion of the recess closed end; and a jet generator vertically spaced from the closed end and located at said lower edge on a second side of the recess opposite the recess first side, the jet generator being ~~and~~ configured to generate a first jet vertically spaced from and underneath the closed end and being configured to generate a second ~~jets~~jet downwardly and away from the recess such that the ~~, said~~ first ~~being~~ jet is aimed in a relatively horizontal ~~in~~ direction and ~~said~~ the second jet is aimed in a ~~being~~ relatively vertical ~~in~~ direction; the jet generator being configured to receive air from a source and to form the first and second jets as respective planar jets using the air from said source; said first jet being ~~directed~~ aimed toward said hood portion recess first side.
25	7	U.S. Claim 25 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein at least one of said first and second jets is defined by a series of circular jets arranged along a line along said lower edge."
26	7	U.S. Claim 26 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein: said hood portion has corners; said first jet is directed perpendicular to said lower edge in a region between said corners and in a direction that is diagonal with respect to said lower edge in a region proximal to said corners, and thereby toward a middle of said hood portion, at said corners."
27	7	U.S. Claim 27 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein said jet generator includes sections extending along lateral sides of the lower edge and is further configured to generate a combination of said first and second jets at said lower edge on forward and lateral sections thereof such that the first jets on the forward and lateral sections are aimed in intersecting directions."
28	7	U.S. Claim 28 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein said jet generator is configured to generate the first and second jets in pairs that are proximal to each other."
29	7	U.S. Claim 29 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein the hood portion lower edge has corners at respective ends thereof, the corners being beveled or curved, and the first jets are directed perpendicular to said lower edge."

30	7	U.S. Claim 30 is the same as U.S. Claim 24 described above, with the additional recitation of "further comprising side skirts on lateral sides of the hood portion."
31	7	U.S. Claim 31 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein the jet generator is configured to form the second jet as a curtain jet."
32	7	U.S. Claim 32 is the same as U.S. Claim 24 above, with the additional recitation of "wherein the jet generator is constructed and arranged such that both of the first and second jets are formed as free jets."
33	7	U.S. Claim 33 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein the jet generator is configured to form the first jet as a free jet."
34	7	U.S. Claim 34 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein said filter is a cartridge filter having an inlet face arranged at an angle so as to partly face the recess open end and partly face the second side, and the jet generator is configured to direct the first jet toward the exhaust intake."
35	7	U.S. Claim 35 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein the jet generator is located on multiple sides of the recess so as to surround at least a portion of the recess at the lower edge."
36	7	U.S. Claim 36 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein the jet generator includes a plenum and at least one opening therein configured to release pressurized air so as to generate the first and second jets."
37	7	U.S. Claim 37 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein the exhaust intake filter bounds the interior space at the first side of the recess."
38	7	The changes between U.S. Claim 38 and PCT Claim 7 are shown in the marked version below: A fume hood, comprising: a hood portion connectable to an exhaust system and having a recess and a lower edge therearound, the hood portion being configured to cover a fume source; a jet generator located at said lower edge and configured to generate a first ~~and second jets, said first being~~ jet aimed in a relatively horizontal ~~in~~ direction and ~~said~~ a second jet aimed in a ~~being~~ relatively vertical ~~in~~ direction~~,~~; ~~said~~ the first jet being ~~directed~~ aimed toward said hood portion recess; and an exhaust intake that opens to the recess and is arranged at a non-zero angle with respect to a plane containing said lower edge such that the exhaust intake faces an interior of the recess; wherein the recess has a closed end and an open end at the lower edge, the recess interior including an end wall portion adjacent to the closed end, the jet generator is vertically spaced from the closed end and includes a plenum having at least one opening configured to release air from the plenum so as to form the first and second jets as respective planar free jets, and the jet generator at least one opening is configured to form the first jet directed along a plane that is spaced from the end wall portion of the recess interior and to form the second jet directed away from the recess.
39	7	U.S. Claim 39 is the same as U.S. Claim 38 described above, with the additional recitation of "wherein the at least one plenum extends along a forward side and at least one lateral side of the lower edge to define a concave perimeter so as to generate said first and second planar jets along said forward side and said at least one lateral side."

40	7	U.S. Claim 40 is the same as U.S. Claim 38 described above, with the additional recitation of "wherein the exhaust intake includes a filter, the filter bounding the interior of the recess."
41	7	U.S. Claim 41 is the same as U.S. Claim 38 described above, with the additional recitation of "wherein the at least one opening includes a pair of rows of regularly spaced circular holes in the at least one plenum."
42	7	The changes between U.S. Claim 42 and PCT Claim 7 are shown in the marked version below: A fume hood, comprising: a hood portion connectable to an exhaust system and having a recess and a lower edge therearound, the hood portion being configured to cover a fume source; a jet generator located at said lower edge and configured to generate first ~~and second~~ jets~~, said first being~~ directed in a relatively horizontal ~~in~~ direction and ~~said~~ second jets directed in a ~~being~~ relatively vertical ~~in~~ direction, ~~;~~ ~~said~~ each first jet being ~~directed~~ aimed toward said hood portion recess, wherein the hood portion recess has an open end at the lower edge and a closed end with an interior space therebetween, the jet generator is vertically spaced from the closed end and includes at least one plenum having openings configured to generate said first and second jets as respective planar free jets, at least some of said openings face toward said interior space and are vertically spaced from the closed end so as to form the first jets, at least others of said openings face away from said interior space and are vertically spaced from the closed end so as to form the second jets, and the jet generator is arranged on forward and lateral sides of the lower edge so as to at least partly surround the recess open end such that corresponding first jets from the lateral side are directed parallel to and in opposite directions ~~toward~~with respect to each other.
43	7	U.S. Claim 43 is the same as U.S. Claim 42 described above, with the additional recitation of "wherein the interior space is bounded by a filter in an exhaust intake of the hood portion."
44	7	U.S. Claim 44 is the same as U.S. Claim 42 described above, with the additional recitation of "wherein the openings include a pair of rows of regularly spaced circular holes in the at least one plenum."
45	7	U.S. Claim 45 is the same as U.S. Claim 21 described above, with the additional recitation of "wherein said jet generator is configured such that the first and second jets consist of air from an identical source."
46	7	U.S. Claim 46 is the same as U.S. Claim 21 described above, with the additional recitation of "wherein said jet generator is configured such that the flow volume of the first jet is less than 20 ft^3/min on a per linear foot basis."
47	7	U.S. Claim 47 is the same as U.S. Claim 24 described above, with the additional recitation of "wherein said jet generator is configured such that the flow volume of the first jet is less than 20 ft^3/min on a per linear foot basis."
48	7	U.S. Claim 48 is the same as U.S. Claim 38 described above, with the additional recitation of "wherein said jet generator is configured such that the flow volume of the first jet is less than 20 ft^3/min on a per linear foot basis."
49	7	U.S. Claim 49 is the same as U.S. Claim 42 described above, with the additional recitation of "wherein said jet generator is configured such that the first and second jets consist of air from an identical source."

50	7	U.S. Claim 50 is the same as U.S. Claim 42 described above, with the additional recitation of "wherein said jet generator is configured such that the flow volume of the first jet is less than 20 ft^3/min on a per linear foot basis."

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

IV. Payment of Fees:

The petition fee under 37 CFR 1.17(h) as required by 37 CFR 1.102(d) has already been paid or is no longer required.

Signature	/Frederick F. Rosenberger/	Date	September 24, 2010
Name	Frederick F. Rosenberger	Registration Number	61,404

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/572,343	08/29/2008	Andrey Livchak	T4338-14465US01	7336

181 7590 09/30/2010
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER
KOSANOVIC, HELENA

ART UNIT	PAPER NUMBER
3749	

NOTIFICATION DATE	DELIVERY MODE
09/30/2010	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):

ipdocketing@milesstockbridge.com
sstiles@milesstockbridge.com

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

In re Application of	:
LIVCHAK, ANDREY et al	: DECISION ON REQUEST TO
Application No. 11/572,343	: PARTICIPATE IN PATENT
Filed: Jan. 19, 2007	: PROSECUTION HIGHWAY
Attorney Docket No. T4338-14465US01	: PILOT PROGRAM AND PETITION
For: CONTROL OF EXHAUST SYSTEMS	: TO MAKE SPECIAL UNDER
	: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed September 24, 2010 to make the above-identified application special.

The request and petition are Dismissed.

A grantable request to participate in the PPH program and petition to make special require:
(1) The U.S. application must disclose an eligible relationship to one or more PCT applications filed in the JPO, EPO, KIPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

With regard to Item #3, the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the EPO/PCT application. The Claims Correspondence Table in the petition is deficient. Current US application contains six independent claims (a total of 40 claims) which are not sufficiently corresponding to allowable claims 7-11 of EPO/PCT search opinion. It must be noted the newly added 5 independent claims contain different scopes from the original allowed independent claim 7 of EPO/PCT search opinion. Thus, Item #3 is not satisfied and for this reason the petition can not be granted. Those extra five independent claims must be cancelled.

With regard to Item #4, it is noted that a first action on the merits and final rejection were issued in this case. The examination of this US application has begun long time ago on April 19, 2010.

Applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn. Response must be filed via EFS-Web. Currently, the application is undergoing entry of RCE papers and amendment processing.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

Petition is **dismissed**.

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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PCT LEGAL ADMINISTRATION

TI Law Group
2055 Junction Avenue, #205
San Jose CA 95131-2116

In re Application of: SOGARD, Michael :
U.S. Application No.: 11/572,394 :
Filing Date: January 19, 2007 :
Attorney's Docket No.: NRCAP028C1 :
For: EXTREME ULTRAVIOLET RETICLE :
PROTECTION USING GAS FLOW :
THERMOPHORESIS :

DECISION ON PETITION

This decision is issued in response to applicants' "Petition To Accept An Unintentionally Delayed Claim For The Benefit Of A Prior-Filed Application (37 CFR §1.78(a)(3))" filed June 29, 2010, which seeks to add to the present application acceptable benefit claims directed to prior-filed international application PCT/US2005/025958 and prior-filed U.S. application 10/898,475. Applicant has submitted the applicable petition fee.

For the reasons discussed below, the petition is **DISMISSED**.

37 CFR 1.78(a)(3) applies where an applicant in a U.S. non-provisional application filed on or after November 29, 2000 seeks to add an unintentionally delayed claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed non-provisional or international application designating the United States. The present application was filed after November 29, 2000, and applicant is seeking to add delayed benefit claims directed to prior-filed international application PCT/US2005/025958 and prior-filed U.S. application 10/898,475. Accordingly, the present petition is properly considered under 37 CFR 1.78(a)(3).

A grantable petition under 37 CFR 1.78(a)(3) must include the following:

(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 where there is a question whether the delay was unintentional.

The present petition fails to comply with item (1) above.

Applicant filed an amendment on 07 April 2010 containing a revised benefit claim identifying the present application as a continuation-in-part of PCT/US2005/025958 which in turn "claims priority to U.S. Patent Application No. 10/898,475, filed July 23, 2004, now U.S. Patent No. 7,030,959." The amendment is unacceptable as filed because it fails to properly indicate the relationship between the two prior-filed applications. Specifically, as quoted above, the amendment states only that PCT/US2005/025958 "claims priority to" the prior-filed U.S. application. It does not indicate whether the international application is a continuation, divisional, or continuation-in-part of the earlier U.S. application, as required. See MPEP 201.11(III)(A):

> Except for benefit claims to the prior application in a continued prosecution application (CPA), benefit claims under 35 U.S.C. 120, 121, and 365(c) must identify the prior application by application number, or by international application number and international filing date, and indicate the relationship between the applications. See 37 CFR 1.78(a)(2)(i). The relationship between the applications is whether the instant application is a continuation, divisional, or continuation-in-part of the prior nonprovisional application. An example of a proper benefit claim is "this application is a continuation of prior Application No. ---, filed ---." A benefit claim that merely states that "this application claims the benefit of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), since the relationship between the applications is not stated.

Moreover, a review of PCT/US2005/025958 reveals that, while such application includes a priority claim directed to U.S. application number 10/898,475, the international application does not include a reference setting forth the relationship between the two applications. See MPEP section 201.11(III)(C) (emphasis added):

> The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. **Appropriate references must be made in each intermediate application in the chain of prior applications.** If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment or supplemental ADS (37 CFR 1.76) which properly sets forth the relationship of the prior-filed application(s) is required. As noted above, any relationship identified in a supplemental amendment filed herein must also be present in the intermediate application.[1]

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[1] For example, if applicant files a revised amendment herein indicating that PCT/US2005/025958 is a continuation-in-part of U.S. application 10/898,475, a petition under 37 CFR 1.78(a)(3) must also be filed in the international application to add such a reference to the intermediate application.

Any further correspondence with respect to this petition 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.

The application is being referred to Group Art Unit 2851 for appropriate consideration.

Richard M. Ross
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Office of PCT Legal Administration
Telephone: (571) 272-3296
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In re Application of: SOGARD, Michael U.S. Application No.: 11/572,394 Filing Date: January 19, 2007 Attorney's Docket No.: NRCAP028C1 For: EXTREME ULTRAVIOLET RETICLE PROTECTION USING GAS FLOW THERMOPHORESIS	DECISION ON PETITION UNDER 37 CFR 1.182 AND RENEWED PETITION UNDER 37 CFR 1.78(a)(3)

This decision is issued in response to applicants' "Request For Reconsideration For Decision On Petition To Accept An Unintentionally Delayed Claim For The Benefit Of A Prior-Filed Application (37 CFR §1.78(a)(3))" filed 24 December 2010 and supplemented on 01 July 2011, and in response to the "Petition For Decision Under 37 CFR § 1.182" filed on 01 July 2011. Applicant has submitted the required petition fee.

BACKGROUND

On July 21, 2005, applicant filed international application PCT/US2005/025958. The international application claimed priority to U.S. non-provisional application 10/898,475, filed on July 23, 2004, and it designated the United States. The deadline for entering the national stage in the United States and for payment of the basic national fee was thirty months from the priority date, i.e., January 23, 2007. The published international included 56 claims.

On January 19, 2007, applicant filed materials to initiate the present application using the EFS-Web electronic filing system. The submission included a description, claims, drawings, abstract, executed declaration, application data sheet (ADS) and a fee payment (including payment of the U.S. basic national fee). The claim set filed on January 19, 2007 included only 18 claims.

The first sentence of the specification filed on January 19, 2007 identified the present application as "a national phase filing of International Application No. PCT/US2005/025958 (internationally filed July 21, 2005) which claims priority to U.S. Patent Application No. 10/898,475, filed July 23, 2004." The ADS identified the present application as both a U.S. national stage under 35 U.S.C. 371 of PCT/US2005/025958 and a continuation-in-part of U.S. application 10/898,475. In addition, the Electronic Acknowledgement Receipt indicates that applicant identified the application during the electronic filing process as a "U.S. National Stage under 35 U.S.C. 371" of PCT/US2005/025958.

Despite applicant's indication that the present application was a national stage of PCT/US2005/025958, the application was processed by the USPTO as a U.S. non-provisional application filed under 35 U.S.C. 111(a).

On December 22, 2007, a filing receipt was issued that identified the application as a CIP of U.S. application number 10/898,475 with a foreign priority claim directed to PCT/US2005/025958. The filing receipt indicated that the application contained 18 total claims.

On March 24, 2009, a non-final Office action was mailed. The Office action examined and rejected the set of 18 claims filed on January 19, 2007.

On November 18, 2009, a final Office action was mailed rejecting the claims.

On March 03, 2010, a revised ADS was filed which identified the present application as a continuation-in-part of PCT/US2005/025958.

On April 07, 2010, applicant filed a Request for Continued Examination (RCE) accompanied by an amendment to the first paragraph of the specification identifying the present application as "a continuation in part of, International Application No. PCT/US2005/025958 (internationally filed July 21, 2005), which claims priority to U.S. Patent Application No. 10/898,475, filed July 23, 2004."

On June 29, 2010, applicant filed a "Petition To Accept An Unintentionally Delayed Claim For The Benefit Of A Prior-Filed Application (37 CFR 1.78(3)" seeking to add to the present application acceptable claims of domestic priority directed to PCT/US2005/025958 and U.S. application number 10/898,475.

On October 07, 2010, this Office issued a decision dismissing applicant's petition, finding that applicant had failed to satisfy all the requirements for a grantable petition.

On December 01, 2010, an Ex Parte Quayle action was issued indicating that the application was in condition for allowance except for formal matters.

On December 24, 2010, applicant filed the "Request For Reconsideration For Decision On Petition To Accept An Unintentionally Delayed Claim For The Benefit Of A Prior-Filed Application (37 CFR §1.78(a)(3))" considered herein as a renewed petition under 37 CFR 1.78(a)(3).

On July 01, 2011, applicant filed a supplement to the renewed petition under 37 CFR 1.78(a)(3), as well as the "Petition For Decision Under 37 CFR § 1.182" also considered herein.[1]

[1] On July 01, 2011, applicant also filed a petition under 37 CFR 1.78(a)(3) in PCT/US2005/025958. That petition is considered in a separate decision issued in the international application.

DISCUSSION

1. Petition Under 37 CFR 1.182 To Treat The Application As A Filing Under 35 USC 111(a)

Applicant's petition under 37 CFR 1.182 requests that the present application be converted to a U.S. national application filed under 35 U.S.C. 111(a), rather than a national stage application filed under 35 U.S.C. 371.

As noted above, the ADS and specification filed herein on January 19, 2007 identified the present application as a U.S. national stage application, and the Electronic Acknowledgement Receipt generated at the time the application was filed confirms that the application was filed as a "U.S. National Stage under 35 USC 371" of PCT/US2005/025958. The materials filed on January 19, 2007 did not contain any conflicting instructions identifying the application as a U.S. application filed under 35 U.S.C. 111(a). Accordingly, the present application should have been, but was not, processed as a U.S. national stage application (see MPEP section 1893.03(a)).

Because the application was processed as a regular national application under 35 U.S.C. 111(a), the set of 18 claims filed January 19, 2007 were used as the basis for examination, ultimately leading to the issuance of an Ex Parte Quayle action on December 01, 2010. Had the application been processed as a U.S. national stage application, the initial claims of record would be the 56 claims contained in the international application, not the 18 claims filed on January 19, 2007 upon which prosecution was conducted, as the January 19, 2007 claim set failed to comply with the provisions of 37 CFR 1.121.

In addition, it is noted that applicant has filed a petition under 37 CFR 1.78(a)(3) requesting that the present application be treated as a continuation-in-part of the international application. As defined in MPEP section 201.08: "A continuation-in-part is an application filed during the lifetime of an earlier nonprovisional application, repeating some substantial portion or all of the earlier nonprovisional application and *adding matter not disclosed* in the said earlier nonprovisional application (*In re Klein*, 1930 C.D. 2, 393 O.G. 519 (Comm'r Pat.1930))." The inclusion of additional subject matter beyond that contained in the international application is not appropriate in a national stage application filed under 35 U.S.C. 371.

Based on the prosecution history of the present application and the indication that the present application includes subject matter beyond the disclosure of the international application, it is determined that sufficient cause exists to justify conversion of the present application from an application filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a), with the description (18 pages), claims (3 pages including 18 numbered claims), drawings (11 pages), and abstract (1 page) filed herein on January 19, 2007 constituting the original specification and claims for the application.

In view of the above, applicant's petition under 37 CFR 1.182 is appropriately granted.

2. Renewed Petition Under 37 CFR 1.78(a)(3)

As set forth in the decision mailed on October 10, 2007, one of the requirements for a grantable petition under 37 CFR 1.78(a) (3) is the reference to the prior-filed applications required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i). For the reasons discussed below, the present renewed petition again fails to include the required reference to the two prior-filed applications in an acceptable form.

The renewed petition under 37 CFR 1.78(a)(3) filed on December 24, 2010, and supplemented on July 01, 2011, again seeks to add to the present application acceptable benefit claims directed to prior-filed international application PCT/US2005/025958 and prior-filed U.S. application 10/898,475. The renewed petition was accompanied by an amendment containing a revised benefit claim stating that "the present application claims priority under 35 U.S.C. 119(b) to, and is a continuation-in-part of, International Application No. PCT/US2005025958 (internationally filed on July 21, 2005), which is a continuation-in-part of U.S. Patent Application No. 10/898,475, filed July 23, 2004." The petition was also accompanied by a revised ADS that included a foreign priority claim directed to PCT/US200502359858.[2]

On July 01, 2011, applicant filed a supplement to the present renewed petition accompanied by a revised ADS in which the priority claim to PCT/US2005/025958 was corrected from a foreign priority claim to a domestic priority claim under 35 U.S.C. 120 identifying the present application as a continuation-in-part of PCT/US2005/025958.[3] However, while the supplement to the petition continues to request, in part, addition of a benefit claim directed to U.S. application 10/898,475, the ADS fails to include a reference to such U.S. application. Pursuant to 37 CFR 1.76(d)(1), the latest submitted information governs where there is an inconsistency between an amendment to the specification and an ADS; thus, the later-filed ADS governs over the prior-filed amendment with respect to the benefit claim. The benefit claim in this ADS, which includes only the claim to the international application and not the additional requested claim to U.S. application number 10/898,475, does not properly set forth the priority claim to both prior-filed applications that are the subject of the present petition.

Moreover, as discussed in detail in the previous decision, while PCT/US2005/025958 includes a priority claim directed to U.S. application number 10/898,475, the international application does not include a reference indicating that the international application is a continuation-in-part of the earlier U.S. application. See MPEP section 201.11(III)(C). Accordingly, before the requested benefit claim identifying PCT/US2005/025958 as a continuation in part of U.S application 10/898,475 may be added to the present application, applicant must file a separate, grantable petition under 37 CFR 1.78(a)(3) in the intermediate application (i.e., PCT/US2005/025958) adding to such intermediate application a benefit claim identifying the international application as a continuation-in-part of U.S. application number

[2] The present application was filed more than twelve months after the international application; thus, a foreign priority claim directed to the international application under 35 U.S.C 119 is not appropriate. The foreign priority claim contained in the ADS and the reference to 35 U.S.C. 119(b) contained in the amendment are therefore improper.

[3] It is noted that neither of the revised ADS documents filed by applicants with respect to the renewed petition were submitted in compliance with the rules for filing a supplemental ADS, as set forth in 37 CFR 1.76(c).

10/898,475. On July 01, 2011, applicant filed a petition under 37 CFR 1.78(a)(3) in PCT/US2005/025958 seeking to add the required claim to the international application; however, as set forth in a separate decision mailed in the international application, such petition was not grantable as filed. Thus, the necessary benefit claim remains absent from the intermediate application.

Because the intended intermediate application (PCT/US2005/025958) does not include the claim which applicant seeks to add to the present application, and because the revised ADS filed on July 01, 2011 does not include the complete domestic priority claim to both prior-filed applications that is the subject of applicant's present petition, applicant has not submitted the required references to the prior-filed applications in an acceptable form. The renewed petition under 37 CFR 1.78(a)(3) is therefore appropriately dismissed.

CONCLUSION

The petition under 37 CFR 1.182 to convert the application to a filing under 35 U.S.C. 111(a) rather than a national stage application filed under 35 U.S.C. 371 is **GRANTED.**

Applicant's renewed petition under 37 CFR 1.78(a)(3) seeking to add to the present application a benefit claim identifying the present application as a continuation-in-part of PCT/US2005/025958, which in turn is a continuation-in-part of U.S. application 10/898,475, is **DISMISSED** without prejudice. The present application does not at present contain a proper benefit claim with respect to any prior-filed applications.

Any further correspondence with respect to this petition 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.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 26 2010

OFFICE OF PETITIONS

FOLEY HOAG, LLP (w/ISA)
PATENT GROUP
155 SEAPORT BLVD.
BOSTON MA 02210-2600

In re Application of	:
Gary R. Klinefelter	:
Application No. 11/572,453	: DECISION ON PETITION
Filed: January 22, 2007	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. ISA-013.05	:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 30, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1644 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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
11/572,453	02/19/2008	1644	1930	ISA-013.05	40	4

CONFIRMATION NO. 8589

CORRECTED FILING RECEIPT

63767
FOLEY HOAG, LLP (w/ISA)
PATENT GROUP
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

OC000000043206040

Date Mailed: 08/25/2010

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)

Gary R. Klinefelter, Fuquay-Varina, NC;

Assignment For Published Patent Application

U.S. Environmental Protection Agency, Washington, DC

Power of Attorney: The patent practitioners associated with Customer Number 63767

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US2005/026102 07/22/2005
which is a CIP of 10/897,387 07/22/2004 PAT 7,211,255
which is a CIP of 09/752,514 01/03/2001 PAT 6,965,016
which is a CIP of 09/123,492 07/28/1998 PAT 6,197,940
which claims benefit of 60/082,753 04/23/1998
and is a CIP of PCT/US97/01725 01/29/1997
which is a CIP of 08/593,677 01/29/1996 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/19/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/572,453**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Contraceptives Based on Sp22 and Sp22 Antibodies

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).

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	11572628
Filing Date	14-Jun-2007
First Named Inventor	Renato Colja
Art Unit	3636
Examiner Name	ERIKA GARRETT
Attorney Docket Number	41575-541
Title	MODULAR CONTOUR SUPPORT APPARATUS

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ( ) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- (●) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/martin l. stern/
Name	Martin L. Stern
Registration Number	28911

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 20,2011

In re Application of :

Renato Colja

Application No : 11572628

Filed : 14-Jun-2007

Attorney Docket No : 41575-541

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic 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 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 8/13/10

TO SPE OF : ART UNIT: 1644 Attn: SCHWADRON RONALD B

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/572634 Patent No.: 7740847

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
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: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 1644

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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. : US 7,740,847

APPLICATION NO.: 11/572,634

ISSUE DATE : 22 Jun 2010

INVENTOR(S) : ALLAN, Barrett, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

1) Column 1, line 4:
Delete "Nos.; and PCT Application Ser."

2) Column 1, line 4:
Delete "entirely" and
Insert --entirety--, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Eli Lilly and Company
P. O. Box 6288
Indianapolis, IN 46206-6288

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Sylwester Gogolewski	:	
Application No. 11/572,648	:	DECISION ON PETITION
Filed: April 7, 2008	:	TO WITHDRAW FROM
Attorney Docket No. 060960-5056-US	:	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 November 22, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Janal M. Kalis and the attorneys/agents associated with Customer Number 21186: (1) do not have power of attorney in this patent application; but (2) have been employed or otherwise engaged in the proceedings in this patent application. However, the Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation[1].

Since a Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address was filed on September 29, 2010, all future communications from the Office will be directed to the new correspondence address of record until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] Practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

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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CHRIS PAPAGEORGE
14625 S. VERMONT #5
GARDENA, CA 90247

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Frank R. Kolb	:	
Application No. 11/572,689	:	DECISION ON PETITION
Filed: January 25, 2007	:	
Attorney Docket No. GK002	:	

This is a decision on the petition, filed August 9, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 6, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 21, 2011.

Petitioner asserts that the Office action dated December 6, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to the Technology Center technical support staff of Art Unit 1774 for re-mailing the Office action of December 6, 2010. The period for reply will run from the mailing date of the Office action.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Tokuda et al.	:	
Application No. 11/572,699	:	ON PETITION
Filed: January 25, 2007	:	
Attorney Docket No. 6920/1119-US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 23, 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 24, 2010. A Notice of Abandonment was mailed February 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 1767 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,750,040 B2
Ser. No. : 11/572,801
Inventor(s) : Bolli et al.
Issued : Jul. 6, 2010
Title : THIOPHENE DERIVATIVES
Docket No. : AC-46-US
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/02/12

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 11572805 Patent No.: 7906292

CofC mailroom date: 01/13/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes be made?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Zachariah Lucas/ — 1648

SPE — **Art Unit**

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Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,989,193	:
Ann Lovgren	: DECISION ON REQUEST FOR
Issue Date: August 2, 2011	: RECONSIDERATION OF
Application No. 11/572,870	: PATENT TERM ADJUSTMENT
Filed: January 29, 2007	: and
Attorney Docket No. **26176-0003US1**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 3, 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 six hundred sixty-nine (669) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-seven **(537)** days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

BACKGROUND

On August 2, 2011, the above-identified application matured into U.S. Patent No. 7,989,193, with a revised patent term adjustment of 535 days. On Monday, October 3, 2011, patentee timely submitted this request for reconsideration of patent term

adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 669 days.

First, Patentee disputes the period of reduction of 93 days entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b). Patentee argues that the period of reduction should be calculated based on a due date for reply of November 8, 2010 (to February 7, 2011), as the date three months from the mailing date of the Office action was November 6, 2010, a weekend day. This reduction has been reconsidered, and it is determined that entry of a reduction of 91 days pursuant to 35 U.S.C. §21(b) is warranted. Accordingly, the period of reduction of 93 days has been removed and a period of reduction of 91 days has been entered.

Further, 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 March 24, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 132 day period from March 24, 2011 (the mailing date of the Notice of Allowance) until August 2, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 132 days and be increased from 373 to 505 days. This argument is at issue.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 373 days based on the application having been filed under 35 U.S.C. 111(a) on January 29, 2007 and the patent not having issued as of the day after the three year date, January 30, 2010, and a request for continued examination under 132(b) having been filed on February 7, 2011. In other words, the 132-day period from the date of filing of the request for continued

examination to the date of issuance of the patent 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 three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination

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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.

of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," meaning that the limitations of paragraph 2 apply to this paragraph's extension of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issuance of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of

allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants extensions of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of

issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent. Thus, not including "any time consumed by" means not including in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days taken up with or any time consumed by clauses (i)-(iii), including filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or taken up with the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the American Inventors Protection Act of 1999, as 35 U.S.C. 154(b).

By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is

entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR

1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the 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. Absent the filing of the request for continued examination, the prosecution of the application would have taken a different direction, which may or may not have resulted in the patent issuing within three years.

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. Where applicant requests that the Office continue to examine the application and consequently the application is pending more than three years, it cannot be said that the continued pendency is due to Office failure within the meaning of 35 U.S.C. 154(b)(1)(B). The time that the application continues to be pending beyond the point of the request is not a delay by the Office in issuing the patent no more than three years after the filing date of the application. The delay is attributable to applicant. This is acknowledged by petitioner in recognizing that time consumed by the filing of the request for continued

[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

examination is properly excluded. The applicant cannot request that prosecution be reopened and the application continue to be pending before the Office, and at the same time, attribute the continued pendency beyond the three-year period to Office failure to issue the patent.

Patentee is reminded that as only the continued pendency beyond three years is not due to Office failure to issue the patent within three years, the patent term is still adjusted for any Office delays under the provisions of 35 U.S.C. 154(b)(1)(A) or (C) that occur after the filing of the request for continued examination. For example, if two years after the filing date of an application, a request for continued examination is filed, and three years after the filing date of the application, the issue fee is paid (and all outstanding requirements are satisfied), but the patent does not issue as a patent until four years after the application's filing date, applicant may be entitled to an eight-month term adjustment because the application did not issue within four months of payment of the issue fee. Since the request for continued examination was filed within three years of the filing date of the application, applicant cannot accrue any term adjustment under the "three-year" statutory basis (35 U.S.C. 154(b)(1)(B)), but may accrue patent term adjustment under the other bases (e.g., 35 U.S.C. 154(b)(1)(A)(iv)).

CONCLUSION

With respect to correction of the applicant delay, the Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred thirty-seven (537) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,989,193 B2

DATED : **August 2, 2011** **DRAFT**

INVENTOR(S) : Lovgren

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 535 days

Delete the phrase "by 535 days" and insert – by 537 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,989,193	: FINAL AGENCY DECISION
Ann Lovgren	: ON REQUEST FOR
Issue Date: August 2, 2011	: RECONSIDERATION OF
Application No. 11/572,870	: DECISION ON APPLICATION
Filed: January 29, 2007	: FOR
Attorney Docket No. **26176-0003US1**	: PATENT TERM ADJUSTMENT
	:

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" filed DATE, requesting reconsideration of the decision of DATE, and requesting that the patent term adjustment under 35 U.S.C. § 154(b) in the decision of DATE, be changed from five hundred thirty-seven **(537)** days to six hundred sixty-nine (669) days.

Patentees request 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 October 25, 2011, is granted to the extent that the decision of October 25, 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 537 days indicated in the decision of October 25, 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 August 2, 2011, the above-identified application matured into U.S. Patent No. 7,989,193, with a revised patent term adjustment of 535 days. On Monday, October 3, 2011, patentee timely submitted a request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 669 days. Patentee maintained, *inter alia*, that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contended 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 argued that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on March 24, 2011, thereby closing examination of the application on that date. Thus, Patentee argued no continued examination took place during the 132 day period from March 24, 2011 (the mailing date of the Notice of Allowance) until August 2, 2011 (the date the patent was issued). As such, Patentee maintained that the "B delay" should include the 132 days and be increased from 373 to 505 days.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or 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 373 days based on the application having been filed under 35 U.S.C. 111(a) on January 29, 2007 and the patent not having issued as of the day after the three year date, January 30, 2010, and a request for continued examination under 132(b) having been filed on February 7, 2011. In other words, the 132-day period from the date of filing of the request for continued examination to the date of issuance of the patent 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 three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus,

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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.

the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," meaning that the limitations of paragraph 2 apply to this paragraph's extension of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issuance of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under

section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 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 extensions of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b)(the filing

of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days taken up with or any time consumed by clauses (i)-(iii), including filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or taken up with the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the American Inventors Protection Act of 1999, as 35 U.S.C. 154(b).

By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or

objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2]

[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on February 7, 2011, and the patent issued by virtue of that request on August 2, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on February 7, 2011 and ending on August 2, 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 537 days, as indicated in the decision of October 25, 2011. The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred thirty-seven (537) days.

Deposit Account No. 06-1050 will be refunded the $200 petition fee submitted with the instant petition, as Patentees previously paid the $200 petition fee on October 3, 2011 and no fee is required with this renewed petition.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

Anthony Knight
Director, Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,989,193	: FINAL AGENCY DECISION
Ann Lovgren	: ON REQUEST TO INVOKE THE
Issue Date: August 2, 2011	: SUPERVISORY AUTHORITY
Application No. 11/572,870	: OF THE DIRECTOR
Filed: January 29, 2007	:
Attorney Docket No. **26176-0003US1**	

This is a decision on the petition filed February 17, 2012, requesting that the Director review the Final Agency Decision on Request for Reconsideration of Decision on Application for Patent Term Adjustment ("Decision") mailed by the Office of Petitions on December 20, 2011.

The Decision maintains that the above-identified patent is entitled to five hundred thirty-seven **(537)** days of patent term adjustment ("PTA"). Patentees request that the Director review the decision and modify the PTA calculation to six hundred sixty-nine (669) days.

The decision of the Director of the Office of Petitions has been reviewed. However, because no error has been found in the decision, the petition under 37 CFR 1.181 is **DENIED**.

The patent term adjustment remains 537 days, as indicated in the final agency decision of December 20, 2011.

Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

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MAR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
BODE et al.	:	
Application No. 11/572,910	:	DECISION ON PETITION
Filed: 02/17/2009	:	
Attorney Docket No. 853663.421USPC	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed February 4, 2011, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance and Fee(s) Due mailed October 4, 2010, which set a three (3) month statutory period for reply. In the absence of a timely filed reply, the application became abandoned on January 5, 2011. On January 18, 2011, the Office mailed a Notice of Abandonment.

Petitioner asserts that the Notice of Allowance mailed October 4, 2010, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance 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.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> 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).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the docket records where the Notice of Allowance would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Notice of Allowance was not received.

In view of the above, the holding of abandonment is withdrawn and the application is restored to pending status. No petition fee is required.

Technology Center Art Unit 2611 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the Notice of Allowance. The three (3) month statutory period for responding to the Notice of Allowance will be set to run from the re-mailing date of the Notice.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
JORGENSEN	:	
Application No. 11/572,969	:	DECISION ON PETITION
Filed: January 31, 2007	:	TO WITHDRAW
Attorney Docket No. 41253.00.0003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 6, 2011.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to John J. Gresens and the Attorneys associated with Customer No. 23418, has been revoked by the assignee of the patent application on May 17, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PATENT DEPARTMENT
TAYLOR, PORTER, BROOKS & PHILLIPS, L.L.P
P.O. BOX 2471
BATON ROUGE LA 70821-2471

In re Patent No. 7,777,499	: DECISION ON APPLICATION FOR
Issued: August 17, 2010	: PATENT TERM ADJUSTMENT and
Application No. 11/573,020	: NOTICE OF INTENT TO ISSUE
Filed: January 31, 2007	: CERTIFICATE OF CORRECTION
Dkt. No.: Little 02L3 US	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT under 37 C.F.R. § 1.705(d)," filed September 8, 2010. Patentee asserts 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 620 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 620 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 620 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 : 7,777,499

DATED : August 17, 2010 **DRAFT**

INVENTOR(S) : Little

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 1042 days

Delete the phrase "by 1042 days" and insert – by 620 days--

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OFFICE OF PETITIONS

In re Application of	:	
Boland, Brian T.	:	
Application No. 11/573,088	:	DECISION ON PETITION
Filed: February 01, 2007	:	TO WITHDRAW
Attorney Docket No. **84479-0001**	:	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 **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 Scott Felder on behalf of all attorneys of record who are associated with customer No. 29693. All attorneys/agents associated with the Customer Number 29693 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Brian Boland at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **BRIAN BOLAND**
1950 MOUNT COTTON ROAD
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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PARFOMAK, ANDREW N.
NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

MAILED

JUL 11 2011

OFFICE OF PETITIONS

In re Application of
Nguyen, et al.
Application No. 11/573,141
Filed/Deposited: 2 February, 2007
Attorney Docket No. 102792-270 (11479P3 US)

DECISION ON PETITION

This is a decision on the petition filed on 28 June, 2011, pursuant to 37 C.F.R. §1.47.

NOTE:

Petitioner appears to have ignored the requirement that a petition pursuant to Rule 47 must be completed prior to commencement of prosecution.

Petitioner appears to have ignored the guidance in the Commentary at MPEP §409.03, and §409.03(a).

The petition as considered pursuant to 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Pursuant to 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition pursuant to 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort

to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See, generally:* MPEP §409.03, and §409.03(a)—the applicable statute (35 U.S.C.§ 116).

In particular, Petitioner has not as of this writing satisfied the requirement(s) of the petition as listed above and discussed below.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability of the message and all applicable attachments of required materials must be provided.

BACKGROUND

The record reflects as follows:

The application was deposited on 2 February, 2007, without, *inter alia*, a fully executed oath/declaration. It is noted that a partially executed oath/declaration as to inventor Ilan, but a stamped statement over what should have been the signature making both unreadable and no clarity as to the residence/nationality information, and as to the apparently with an un-translated statement in Hebrew, an "X" in the place of the signature, though undated.

Pursuant to Rule and the guidance (as previously set forth) in the Commentary in the MPEP, before prosecution commences all application status is to be completed, *inter alia*, requiring a fully executed oath/declaration.

On 28 June, 2011, Petitioner Andrew N. Parfomak (Reg. No. 32,431) filed, *inter alia*, a petition pursuant to the regulations at 37 C.F.R. §1.47, with an oath/declaration executed by co-inventor Wu for himself and on behalf of non-signing co-inventor Lamson Nguyen (Mr. Nguyen), with a statement by Petitioner, however, a review of the papers submitted and averment of delivery—however, in light of the age of the transmittal information and the lack of delivery confirmation in the form of a receipt signature, and Petitioner's failure to provide confirmation of the valid/current/reasonably believed to be last known mailing address for the non-signing inventor with transmittal of the entire application (description, claims, abstract, drawings) to the non-signing inventor. Thus, there is no demonstration as to any diligence employed in an effort to ascertain a valid/current/reasonably believed to be last known address for the non-signing inventor. Thus there is at this writing insufficient showing of the requirement that the entire application—description, claims, abstract and drawing—was transmitted to valid/current/reasonably believed to be last known addresses for the non-signing inventor with his refusal to sign/join.

Petitioners always are reminded:

- *for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability of the message and all applicable attachments of required materials must be provided; and*

- *of the duties of candor to—with requirement for diligent inquiry before—the Office and to satisfy the Rules of Practice and the guidance in the Commentary at MPEP §409.03, and §409.03(a), et seq.*

Out of an abundance of caution, Petitioner should step through the requirements of a grantable petition under 37 C.F.R. §1.47(a) (i.e., (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address) and satisfy himself that he has complied with these requirements on submission of any renewed petition. (*See also*: the guidance in the Commentary at MPEP §409.03, and §409.03(a), et seq.)

Again, Petitioner has not worked through the requirements of the petition.

Thus, the present incompleteness of the record makes granting of the instant petition inappropriate.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition pursuant to 37 C.F.R. §1.47(a) is **dismissed**.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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

While 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

[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.

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PARFOMAK, ANDREW N.
NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of
Nguyen, et al.
Application No. 11/573,141
Filed/Deposited: 2 February, 2007
Attorney Docket No. 102792-270 (11479P3 US)

DECISION ON PETITION

This is a decision on the petition filed on 3 August, 2011, pursuant to 37 C.F.R. §1.47.

The petition as considered pursuant to 37 C.F.R. §1.47(a) is **GRANTED**.

A grantable petition pursuant to 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability of the message and all applicable attachments of required materials must be provided.

BACKGROUND

(The following revision of the Background corrects misunderstandings that existed upon consideration of the original (28 June, 2011,) petition herein as outlined in the decision of 11 July, 2011.)

The record reflects as follows:

The application was deposited on 2 February, 2007, without, *inter alia*, a fully executed oath/declaration.

Apparently on deposit of the application it was not noted by the Office of Patent Application that the oath/declaration was not fully executed. Thus, on 12 April, 2011, the application was withdrawn from issue pending resolution of the matter with submission either of a fully executed oath/declaration or with a grant of status pursuant to the regulations at 37 C.F.R. §1.47.

On 28 June, 2011, Petitioner Andrew N. Parfomak (Reg. No. 32,431) filed, *inter alia*, a petition pursuant to the regulations at 37 C.F.R. §1.47, with an oath/declaration executed by co-inventor Wu for himself and on behalf of non-signing co-inventor Lamson Nguyen (Mr. Nguyen), with a statement by Petitioner, however, a review of the papers submitted and averment of delivery (in view of the age of the transmittal information and the lack of delivery confirmation in the form of a receipt signature) suggested a valid/current/reasonably believed to be last known mailing address for the non-signing inventor may not have been used to transmit the entire application (description, claims, abstract, drawings) to the non-signing inventor. The petition was dismissed on 11 July, 2011.

On 3 August, 2011, Petitioner re-advanced his petition pursuant to the regulations at 37 C.F.R. §1.47, and made at that time a more detailed and specific showing that the previously submitted effort to identify a valid/current/reasonably believed to be last known mailing address for the non-signing inventor for transmittal of the entire application (description, claims, abstract, drawings) to the non-signing inventor indeed had been accomplished, and that thereafter the non-signing co-inventor Lamson Nguyen simply failed to sign/join in the application, and so constructively refused to sign.

Therefore, it appears that Petitioner provided a showing satisfying the requirements under the Rule to wit: showing/proof that the non-signing inventor actually and/or constructively refused to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address. Thus, Petitioner sought to satisfy the requirements pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq.), and provide a showing that the non-signing inventor could not be found/refused to sign after diligent effort.

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 <u>and</u> all others who make representations before the Office **must** inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

It is noted for the record that Petitioner's request at page 10 of the 3 August, 2001, petition—"that all claims to priority rights be recognized"—is not properly raised pursuant to the regulations at 37 C.F.R. §1.47, and, therefore, to that extent the instant petition must be and is dismissed.

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Office of Patent Application Processing (OPAP) for such processing as required 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

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §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

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LAMSON NGUYEN
278 MAPLE AVENUE
SOMERSET, NJ 08873

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of
Nguyen, et al.
Application No. 11/573,141
Filed/Deposited: 2 February, 2007
Attorney Docket No. 102792-270 (11479P3 US)

COMMUNICATION

Dear Lamson Nguyen:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47 (Code of Federal Regulations), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/your action(s) and/or inactions. Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
PARFOMAK, ANDREW N.
NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
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PHILIP S. JOHNSON
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NEW BRUNSWICK NJ 08933-7003

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Hoornaert et al.	:	
Application No. 11/573224	:	ON APPLICATION FOR
Filing or 371(c) Date: 02/05/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
PRD-2260-USPCT	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed January 24, 2011. Applicant requests a minimum Patent Term Adjustment of 826 days, instead of 616 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Altevogt et al.	:	
Application No. 11/573,269	:	ON PETITION
Filed: May 4, 2007	:	
Attorney Docket No. 03528.0153.PCUS00	:	

This is a decision on the petition under 37 CFR 1.182, filed, July 6, 2010, to change the name of inventor "GAST" to – KELM –.

The petition is **DISMISSED**.

The petition under 37 CFR 1.182 to change an inventor's name must include (1) an appropriate petition fee, (2) a statement signed by the inventor setting forth both names and (3) the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner has not complied with item (2) as listed above.

Accordingly, in order for the petition to be granted, a statement signed by the inventor setting forth both names must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Altevogt et al.	:	
Application No. 11/573,269	:	ON PETITION
Filed: May 4, 2007	:	
Attorney Docket No. 03528.0153.PCUS00	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.182, filed August 20, 2010, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Daniela GAST to Daniela KELM.

There is an outstanding Office action, mailed August 13, 2010, which requires a reply. Failure to do so will result in abandonment of the instant application.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/573,269	05/04/2007	1636	615	03528.0153.PCUS00	19	4

CONFIRMATION NO. 8913

CORRECTED FILING RECEIPT

27194
HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

OC000000043523606

Date Mailed: 09/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Peter Altevogt, Neckargemund, GERMANY;
Daniela Kelm, Dossenheim, GERMANY;
Mina Fogel, Gedera, ISRAEL;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP05/08148 07/27/2005

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 04018723.9 08/06/2004

If Required, Foreign Filing License Granted: 09/25/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/573,269**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Inhibitors for L1 and Adam10 for the Treatment of Carcinomas

Preliminary Class

536

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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
LOEFFEL, Mario et al.	:	
Application No. 11/573,310	:	DECISION ON PETITION
Filed: August 06, 2007	:	TO WITHDRAW
Attorney Docket No. **060960-5061-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 November 22, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. has been revoked by the applicants of the patent application on September 29, 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 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MORGAN, LEWIS, & BOCKIUS LLP - SYNTHES**
1701 MARKET STREET
PHILADELPHIA PA 19103

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84274 - Docket Clerk
P.O. Box 802432
Dallas TX 75380

MAILED
AUG 23 2010
PCT LEGAL ADMININSTRATION

In re Application of: BUETHKER et al.
Application No.: 11/573,352
PCT No.: PCT/IB2005/052520
Int. Filing: 27 July 2005
Priority Date: 13 August 2004
Attorney Docket No.: NL040881US1
For: DIGITALLY CONTROLLING A DC-DC CONVERTER

DECISION ON PETITION

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 09 June 2010. In a decision dated 10 March 2010, applicants' "Petition under 37 CFR 1.47(a)" filed 08 February 2010 was dismissed because applicants did not provide adequate proof that nonsigning inventors, Lambert J.H. Folmer and Cornelis Stienstra, refused to execute the application or could not be reached after diligent effort. Additionally, petitioner had not submitted an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor (the declaration submitted included an alteration to the first inventor's name).

The procedural background for this application was set forth in detail in the decision mailed by this Office on 10 March 2010.

DISCUSSION

Inventor Lambert J.H. Folmer

In regards to Lambert J.H. Folmer, the petition for status under 37 CFR 1.47(a) is moot since the declaration filed 09 June 2010, with the present renewed petition is executed by the named inventor, the previous non-signing inventor, Lambert J.H. Folmer.

Inventor Cornelis Steinstra

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) have been previously satisfied.

The renewed petition includes additional materials confirming that a copy of the complete application papers, with a request for signature, was forwarded to the non-signing inventor (Cornelis Stienstra) at his last known address, and that the inventor (Cornelis Stienstra) has failed to provide the requested signature. This submission, in combination with the materials included with the original petition, provides an adequate showing that the inventor (Cornelis Stienstra) has refused to execute the application.

As to item (4), an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor has been included with the present petition. However, the declaration filed 09 June 2010 is not acceptable under 37 CFR 1.497. Specifically, the declaration lists the first inventor as Henricus C.J. Buthker, whereas the international application lists the first inventor as Henricus C.J. Buethker. As stated in MPEP 201.03,

> a request under 37 CFR 1.48 will not be required: (B) Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required.

Applicants are required to provide an explanation of the typographical or transliteration error in the name of the first inventor, Henricus C.J. Buethker.

For the reason stated above, it is not appropriate to accept the application without the signature of Henricus C.J. Buethker under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition filed under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

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.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298

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Dallas TX 75380

MAILED

JAN 04 2011

PCT LEGAL ADMINISTRATION

In re Application of: BUETHKER et al.
Application No.: 11/573,352
PCT No.: PCT/IB2005/052520
Int. Filing: 27 July 2005
Priority Date: 13 August 2004
Attorney Docket No.: NL040881US1
For: DIGITALLY CONTROLLING A DC-DC CONVERTER

DECISION ON PETITION

This decision is issued in response to applicants' "Second Renewed Petition under 37 CFR 1.47(a)" filed 25 October 2010.

The procedural background for this application was set forth in detail in the decision mailed by this Office on 10 March 2010 and 23 August 2010.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) - (3) have been previously satisfied.

In the Decision mailed 23 August 2010, the petition under 37 CFR 1.47(a) was dismissed without prejudice because petitioner had not submitted an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor. Specifically, the declaration was not accepted because the declaration lists the first inventor as Henricus C.J. Buthker, whereas the international application lists the first inventor as Henricus C.J. Buethker. (Applicants were directed to MPEP 201.03.)

In response, petitioner has provided an explanation of the typographical/ transliteration error regarding Henricus C.J. Buthker pursuant to Section 201.03 of the Manual of Patent Examining Procedure. Accordingly, applicants' explanation of the difference in the spelling of the inventors' name is accepted and noted for the record.

However, further inspection reveals that said declaration is defective pursuant to 37 CFR 1.497(a)(3) which requires that the declaration "identify each inventor and the residence and country of citizenship of each inventor." Specifically, the declaration submitted failed to include the citizenship of the nonsigning inventor. Applicants are reminded that all the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64.[1] Therefore, a newly executed declaration is required.

CONCLUSION

The renewed petition filed under 37 CFR 1.47(a) is **DISMISSED** without prejudice and the previously filed declarations are NOT ACCEPTED.

A proper response (i.e., an oath or declaration compliant with 37 CFR 1.497(a) and (b)) must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to file a proper response will result in ABANDONMENT of the application.

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.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

[1] 37 CFR 1.64(b) states (in part): If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor is required to state (emphasis added).

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P.O. Box 802432
Dallas TX 75380

MAILED

APR 27 2011

PCT LEGAL ADMINISTRATION

In re Application of:
BUETHKER et al.
Application No.: 11/573,352
PCT No.: PCT/IB2005/052520
Int. Filing: 27 July 2005
Priority Date: 13 August 2004
Attorney Docket No.: NL040881US1
For: DIGITALLY CONTROLLING A DC-DC CONVERTER

DECISION ON PETITION

This decision is in response to applicants' "Third Renewed Petition under 37 CFR 1.47(a)" filed 04 April 2011. In a decision dated 04 January 2011, applicants' "Second Renewed Petition under 37 CFR 1.47(a)" filed 09 June 2010 was dismissed because petitioner had not submitted an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor (the declaration did not include the citizenship of the nonsigning inventor).

The procedural background for this application was set forth in detail in the decision mailed by this Office on 10 March 2010 and 23 August 2010.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1), (2) and (3) have been previously satisfied.

As to item (4), an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor has been included with the present petition under 37 CFR 1.47(a). This declaration includes the citizenship of the nonsigning inventor and the declaration is in compliance with 37 CFR 1.497(a)-(b).

For the reason stated above, it is appropriate to accept the application without the signature of Cornelis Stienstra under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is GRANTED.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Cornelis Stienstra
Valkenveld 16
Roden, The Netherlands 9302 GT

MAILED

APR 27 2011

PCT LEGAL ADMINISTRATION

In re Application of:
BUETHKER et al.
Application No.: 11/573,352
PCT No.: PCT/IB2005/052520
Int. Filing: 27 July 2005
Priority Date: 13 August 2004
Attorney Docket No.: NL040881US1
For: DIGITALLY CONTROLLING A DC-DC CONVERTER

Dear Cornelis Stienstra:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298

Counsel of Record:
84274 - Docket Clerk
P.O. Box 802432
Dallas TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Anderson & Levine, L.L.P.
14785 PRESTON ROAD
SUITE 650
DALLAS TX 75254

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of :
Meredith et al. : DECISION ON PETITION
Application No. 11/573,432 :
Filed: February 8, 2007 :
Atty Docket No. P2PC.10001NP :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed May 23, 2011.

The petition is **GRANTED**.

On September 2, 2009, a non-final Office action was mailed in the above-identified application. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned effective December 3, 2009. A courtesy Notice of Abandonment was mailed on April 20, 2010.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay, along with an additional statement of unintentional delay; and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

All requirements of 37 CFR 1.137(b) have been met.

A power of attorney and change of correspondence address filed May 23, 2011 was not accepted as it was signed by only one of the two inventors. See Notice mailed June 1, 2011. A courtesy copy of this decision is being mailed to the address set forth on the petition. However, until such time as a proper power of

attorney and change of address is filed, all other correspondence will be mailed solely to the address of record.

Technology Center AU 3714 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed May 23, 2011.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Steven Schmid
1824 Hickory Trace Drive
Fleming Island, FL 32003

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JAN 13 2011

OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

Applicant: Klimov, et al.
Appl. No.: 11/573,548
International Filing Date: April 20, 2005
Title: DEVICE FOR BIOMETRICALLY CONTROLLING A FACE SURFACE
Attorney Docket: 24816-12602
Pub. No.: US 2009/0021579 A1
Pub. Date: January 22, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 20, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein the wrong abstract was printed.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein the title incorrect abstract was printed may be an Office error, but it is a not material Office error under 37 CFR 1.221. The error does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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VENABLE, CAMPILLO, LOGAN & MEANEY, P.C.
1938 E. OSBORN RD
PHOENIX AZ 85016-7234

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Feyzi Murat Isikman	:	
Application No. 11/573,555	:	ON PETITION
Filed: November 7, 2008	:	
Attorney Docket No. PHDL1136-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 3, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 4, 2010. The Notice of Abandonment was mailed May 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 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 July 2, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson

Terri Johnson
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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OCT 05 2010

OFFICE OF PETITIONS

GLENN PATENT GROUP – RAMBUS, INC.
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

In re Application of	:	
Ray McConnell	:	
Application No. 11/573,556	:	NOTICE
Filed: September 20, 2008	:	
Attorney Docket No. 0120-035	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, LLP
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Kanami Ikegami et al	:	
Application No. 11/573,593	:	DECISION GRANTING PETITION
Filed: February 12, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 303351US2PCT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 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 5, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 1 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Kal Roecker	:	
Application No. 11/573,631	:	DECISION GRANTING PETITION
Filed: February 12, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 22237-002US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 9, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 30, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2857 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and the petition under 37 CFR 1.48(c).

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/573,638	02/12/2007	Keiichiro Oishi	MIKI0010	3855

24203 7590 03/22/2011
GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

EXAMINER
IP, SIKYIN

ART UNIT	PAPER NUMBER
1735	

MAIL DATE	DELIVERY MODE
03/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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3/22/11

wk

Mailed :
In re Application of : DECISION ON
Oishi et al. : PETITION
Serial No. 11/573,638 :
Filed: February 12, 2007 :
For: **SN-CONTAINING COPPER ALLOY AND METHOD OF MANUFACTURING THE SAME**

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on December 22, 2010.

The Examiner on March 12, 2010 made a restriction requirement for claims 1-36 under lack of unity.

Group I, claims 1, 7-22 and 25-36 drawn to a Sn-containing copper alloy, comprising: Sn 0.01 to 16 mass%, Zr:0:001 to).049 mass%, P:0.01 to 0.25 mass%, and Cu: remainder:

Group 2, claims 2, 7-22 and 25-36 drawn to a Sn-containing copper alloy, comprising : Sn 0.01 to 16 mass%, Zr:0:001 to 0.049 mass%, P:0.01 to 0.25 mass%, Zn:0.01 to 38 % and Cu: remainder;

Group 3, claims 3, 7-22 and 25-36 drawn to a Sn-containing copper alloy, comprising : Sn 0.01 to 16 mass%, Zr:0:001 to 0.049 mass%, P:0.01 to 0.25 mass%; one or more elements selected from Mn:0.05 to 4 mass%, AL: 0.01 to 3 mass%, Si:0.01 to 1.9 mass% and Co:0.005 to 0.1 mass%, and Cu: remainder;

Group 4, claims 4, 7-22 and 25-36 drawn to a Sn-containing copper alloy, comprising : Sn 0.01 to 16 mass%, P:0.01 to 0.25 mass%; Zn: 0.01 to 38 mass%; one or more elements selected from Mn: 0.05 to 4 mass%, Al:0.01 to 3 mass%, Si: 0.01 to 1.9 mass% and Co:0.005 to 0.1 mass%; and cu: remainder;

Group 5, claims 6, 7-22 and 25-36 drawn to a Sn-containing copper alloy, comprising : Sn 0.01 to 16 mass%, Zr:0:001 to 0.049 mass%, P:0.01 to 0.25 mass%; Zn: 0.01 to 38 mass%; one o more elements selected from As:0.02 to 0.2 mass %, Sb:0.02 to 0.2 mass % and Mg:0.001 to 0.2 mass%; and Cu: remainder

Group 6, claims 23 and 24 drawn to a Sn-containing copper alloy, comprising : Sn 0.01 to 16 mass%, Zr:0:001 to 0.049 mass%, P:0.01 to 0.25 mass%; Zn: 0.01 to 38

mass%; one or more elements selected from As:0.02 to 0.2 mass %, Sb:0.02 to 0.2 mass % and Mg:0.001 to 0.2 mass%; one or more elements selected from Mn:0.05 to 4 mass%, Al:0.01 to 3 mass%, Si 0.01 to 1.9 mass % and Co:0.005 to 0.1 mass%; and Cu:remainder.

The Examiner asserts that Groups 1-6 do not relate to a single inventive concept under PCT rule 13.1, because they lack the same or corresponding special technical feature. The Examiner cited JP 38-20467 which discloses Cu alloy composition and grain size. Accordingly the special technical feature linking the groups do not provide a contribution over the prior art and no single inventive concept exists. . The Examiner requested that should applicant traverse on the grounds that the inventions have unity of invention (37 CFR 1.475(a)), Applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence no of record showing the inventions to be obvious variants or clearly admit on the record that this is the case.

On April 12, 2010, Applicant elected, with traverse, the invention of Group 2, claims 2, 7-22 and 25-36.. Claims 1 and 2 were amended. Applicant asserts that JP 38-20467 fails to teach or suggest several limitations now recited in the claims. The reference does not disclose "the Sn-containing copper alloy is refined to grains during melt-solidification and a mean grain size of the refined grains is 300um or less" as claimed in amended claims 1 and 2.

The Examiner did not find this persuasive because "compositions and f0 of claims 2, 4, and 6 are different. The additional elements in claims 4 and 6 are not optional and f0 in each of said claims is related to recited elements. Thus compositions of claims 2, 4, and 6 have lack of unity". The Examiner did not comment on claim 1.

When making a lack of unity of invention requirement, the Examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group. The Examiner did not do this in view of the amended claims. Applicants assert the JP 38-20467 fails to establish a prima facie case of obviousness of Applicant's claimed invention in view of amended claims 1 and 2.

Applicant contends the present application should at most be divided into two groups. Each of Applicant's proposed groups has special technical features.

Group A (Examiner's previous groups 1 and 3), claims 1, 3, 7-22 and 25-36. Group A relates to a composition of Sn-containing copper alloy, comprising Sn: 0.01 to16 mass%, Zr:0.001 to 0.049 mass %, P:0.01 to 0.25 mass%, and Cu:remainder, and optionally one or more elements selected from Mn:0.05 to 4 mass%, Al:0.01 to 3 Mass %; Si: 0.01 to 1.9% mass% and Co:0.005 to 0.1 mass%.

Group B (Examiner's previous groups 2, 4, 5 and 6), claims 2, 4, 6 and 7-36. Group B relates to a composition of Sn-containing copper alloy, comprising Sn: 0.01 to 16 mass%, Zr: 0.001 to 0.049 mass %, P:0.01 to0.25 mass%, Zn: 0.01 to 38 mass% and Cu: remainder, and optionally one or more elements selected form Mn:0.05 to 4 mass%, Al: 0.01 to 3 mass %, Si: 0.01 to 1.9 mass % and Co:0.005 to 0.1 mass%

and/or optionally one or more elements selected from As:0.02 to 0.2 mass%, Sb: 0.02 to).2 mass% and Mg:0.001 to 0.2 mass%.

Applicants assert that the special technical features common to each of Group A and B are novel and/or unobvious over JP 38-20467.

DECISION

The petition is **GRANTED.**

The restriction requirement is withdrawn. The Examiner may consider and accept Applicant's proposed restriction identified as Groups A and B or proposed a restriction in view of the amended claims of record.

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

Joerg-Uwe Szipl
GRIFFIN & SZIPL, PC
SUITE PH-1
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ARLINGTON VA 22204

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MC 110
FRANKLIN LAKES, NJ 07417-1880

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Schiller et al.	:	
Application No. 11/573,650	:	ON PETITION
Filing: June5, 2007	:	
Attorney Docket No. P-6468	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 15, 2011, as required by the Notice of Allowance and Fee(s) Due mailed November 15, 2010. Accordingly, the application became abandoned on February 16, 2011. A Notice of Abandonment was mailed on February 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 $1,510 and publication fee of $300, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03-02-12
TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/573704 Patent No.: 7973267

CofC mailroom date: 12-22-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: OK to enter

Henry C. Yuen
Supervisory Patent Examiner
Group 3700

SPE **Art Unit** 3742

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	11573760
Filing Date	15-Feb-2007
First Named Inventor	Michiyo Goto
Art Unit	2614
Examiner Name	HAI PHAN
Attorney Docket Number	P31638
Title	STEREO SIGNAL GENERATING APPARATUS AND STEREO SIGNAL GENERATING METHOD

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

○ A joint inventor; all of whom are signing this e-petition

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Steven Wegman/
Name	Steven Wegman
Registration Number	31438

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 17,2011

In re Application of :

Michiyo Goto

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11573760

Filed : 15-Feb-2007

Attorney Docket No : P31638

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 17,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2614 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application
Henning Vollert et al.
Application No. 11/573,762
Filed: January 16, 2008
Attorney Docket No. **DEAV2004/0052**
US PCT

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the Request for Reconsideration of the Patent Term Adjustment Under § 37 C.F.R. § 1.705(b) filed August 9, 2011. Applicant requests that the determination of patent term adjustment be corrected from 575 days to 431 days.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On June 6, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 575 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants argue that a response was due by October 18, 2007 to the Notice of DO/EO Missing Requirements mailed July 18, 2007, however the response was not filed until March 10, 2008, thus a period of 144 days of Applicant delay should have been deducted from the total Patent Term Adjustment.

Pursuant to 37 CFR 1.704(b), a period of reduction of 144 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

[1] PALM records indicate that the issue fee was paid on August 16, 2011.

> 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, applicants did fail to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice of DO/EO Missing Requirements mailed July 18, 2007 within the three-month period provided for in 37 CFR 1.704(b). Applicants did not file a complete and proper response until March 10, 2008. Accordingly, a period of reduction of 144 days is being entered for the period beginning on October 19, 2007, the day after the date that is three months after the date of mailing of the Notice, and ending on March 10, 2008, the date applicants' reply was filed.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is FOUR HUNDRED THIRTY-ONE days (575 days of Office delay reduced by 144 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11573762 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11573762

Application Filing Date	01/16/2008	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	575
A Delays	575	PTO Manual Adjustment	-144
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	431

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
104	08/19/2011		P028	Adjustment of PTA Calculation by PTO		144	0
90	06/06/2011		MN/=.	Mail Notice of Allowance			0
89	06/02/2011		OAR	Office Action Review			0
88	06/02/2011		OAR	Office Action Review			0
87	06/02/2011		N/=.	Notice of Allowance Data Verification Completed			0
86	06/02/2011		IREV	Issue Revision Completed			0
85	06/02/2011		DVER	Document Verification			0
84	05/23/2011		EX.A	Examiner's Amendment Communication			0
83	05/23/2011		CNTA	Allowability Notice			0
81	03/18/2011		FWDX	Date Forwarded to Examiner			0
82	03/17/2011		C614	New or Additional Drawing Filed			0
80	03/17/2011		A...	Response after Non-Final Action			0
79	01/24/2011		ELC_RVW	Electronic Review			0
78	01/24/2011		EML_NTF	Email Notification			0
77	01/24/2011		MCTNF	Mail Non-Final Rejection			0
76	01/18/2011		CTNF	Non-Final Rejection			0
74	11/15/2010		FWDX	Date Forwarded to Examiner			0
73	11/12/2010		ELC.	Response to Election / Restriction Filed			0
72	10/12/2010		ELC_RVW	Electronic Review			0
71	10/12/2010		EML_NTF	Email Notification			0
70	10/12/2010	03/16/2009	MCTRS	Mail Restriction Requirement	575		32
69	10/01/2010		CTRS	Restriction/Election Requirement			0
60	07/14/2009		DOCK	Case Docketed to Examiner in GAU			0
59	07/14/2009		TI1052	Decision Made by Classification Division			0
58	07/14/2009		TI1054	Request for Classification Division Decision			0
53	03/26/2009		CLSS	CASE CLASSIFIED BY OIPE			0
75	03/23/2009		IDSC	Information Disclosure Statement considered			0
57	03/23/2009		M844	Information Disclosure Statement (IDS) Filed			0
54	03/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
51	03/19/2009		TI1050	Transfer Inquiry to GAU			0
50	01/18/2009		TI1050	Transfer Inquiry to GAU			0
49	12/10/2008		CLSS	CASE CLASSIFIED BY OIPE			0
47	10/09/2008		TI1050	Transfer Inquiry to GAU			0
48	09/18/2008		A.PE	Preliminary Amendment			0
46	09/05/2008		EML_NTR	Email Notification			0
45	09/04/2008		PG-ISSUE	PG-Pub Issue Notification			0
44	08/21/2008		EML_NTR	Email Notification			0
43	08/20/2008		MNPRL	Mail Non-Compliant Preliminary Amendment			0
42	08/18/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
41	08/18/2008		NPRL	Non-Compliant Preliminary Amendment			0
34	06/20/2008		OIPE	Application Dispatched from OIPE			0
33	05/28/2008		EML_NTR	Email Notification			0
30	05/28/2008		FLRCPT.O	Filing Receipt			0
29	05/28/2008		M903	Notice of DO/EO Acceptance Mailed			0
31	05/27/2008		PGPC	Sent to Classification Contractor			0
24	05/13/2008		EML_NTR	Email Notification			0
23	05/09/2008		MPTGR	Mail-Petition Decision - Granted			0
22	05/08/2008		PTGR	Petition Decision - Granted			0
20	04/30/2008		PET.	Petition Entered			0
19	04/08/2008		EML_NTR	Email Notification			0
18	04/07/2008		MPTDI	Mail-Petition Decision - Dismissed			0
17	04/04/2008		PTDI	Petition Decision - Dismissed			0
56	03/24/2008		CRFF	Error(s) in CRF Corrected by STIC			0

15	03/14/2008	PST_CRD	Mail Post Card	0
28	03/10/2008	SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
27	03/10/2008	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
26	03/10/2008	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
14	03/06/2008	EML_NTF	Email Notification	0
13	03/06/2008	M916	Notice of DO/EO Defective Response Mailed.	0
55	01/30/2008	CRFD	CRF Is Flawed Technically / Not Entered into Database	0
40	01/16/2008	RU47	Rule 47 / 48 Correction of Inventorship Papers Filed	0
32	01/16/2008	371COMP	371 Completion Date	0
25	01/16/2008	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
12	01/16/2008	PET.	Petition Entered	0
11	01/16/2008	ADDFLFEE	Additional Application Filing Fees	0
0.5	08/10/2005	NEFILE	International Filing date	0

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GREENBERG TRAURIG LLP (LA)
c/o: Greenberg Traurig LLP Chicago Office
77 West Wacker Drive, Suite 3100
INTELLECTUAL PROPERTY DEPARTMENT
Chicago IL 60601

MAILED

MAY 20 2011

PCT LEGAL ADMINISTRATION

In re Application of	:
KOOPS, et al.	:
Application No. 11/573,837	: DECISION ON PETITION
Filed: October 8, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 072998-015100	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 23 March 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) 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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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).

In addition, the amendment concurrently filed is missing a relationship to international application PCT/NL2003/000483. (i.e. "continuation" or "divisional") (See MPEP § 201.11).

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 matters are 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.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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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GREENBERG TRAURIG LLP (LA)
c/o: Greenberg Traurig LLP Chicago Office
77 West Wacker Drive, Suite 3100
INTELLECTUAL PROPERTY DEPARTMENT
Chicago IL 60601

MAILED

AUG 15 2011

PCT LEGAL ADMINISTRATION

In re Application of	:
KOOPS, et al.	:
Application No. 11/573,837	: DECISION ON PETITION
Filed: October 8, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 072998-015100	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 20 June 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed in the instant petition.

The renewed petition under 37 CFR 1.78(a)(3) 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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Applicant previously satisfied items 2 and 3.

The renewed petition fails to comply with item (1) above.

The renewed petition fails to comply with item (1) above in that the filed ADS does not properly identify the chain of priority applications. For example, applicant has incorrectly listed international application PCT/NL2005/000593 as "a 371 of international" with the prior application section left blank. This section should read, "11/573,837 a 371 of international application PCT/NL2005/000593." Furthermore, PCT/NL2003/000483 is identified as a CIP but the parent application number is not identified.

In addition, the foreign priority information is inconsistent with declaration filed 08 October 2007 in that the ADS does not list any foreign priority claim.

Therefore, 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 matters are 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.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
James, Michael D.	:	
Application No. 11/573,870	:	DECISION ON PETITION
Filed: February 16, 2007	:	
Attorney Docket No. 005926.P077	:	

This is a decision on the petition to revive on the grounds of unavoidable delay, filed June 2, 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 failure to receive the Office action.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed September 18, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 15, 2010.

Petitioner asserts that the Office action dated September 18, 2009 was not received.

A review of the written record indicates the a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was received on October 10, 2008. However, it was never processed by the USPTO. As stated in MPEP 402.05, a revocation of the power of attorney becomes effective on the date that the revocation is *received* in the Office, not on the date of acceptance.

As the Revocation of Power of Attorney was never processed, the non-final Office action of September 18, 2009 was erroneously mailed to the wrong address.

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.

On August 16, 2010, the Revocation of Power of Attorney was processed and the correspondence address is now correctly associated with Customer Number 08791.

The $540.00 petition fee will be credited to petitioner's deposit account.

As petitioner has supplied an Amendment with the instant petition, this application is being referred to the Technology Center AU 3662 for further examination on the merits.

Liana Walsh
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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LEXYOUME IP GROUP, PLLC
5180 PARKSTONE DRIVE, SUITE 175
CHANTILLY VA 20151

FEB 02 2011

In re Application of
KIM, DO-SUNG et al. :
Application No.: 11/573,975 : DECISION ON
Filing or 371(c) Date: February 20, 2007 : PETITION
Attorney Docket Number: KPE20090109US :

This is a decision in response to the "Notice to Withdraw Holding of Abandonment," filed January 11, 2011.

This petition is **DISMISSED**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed September 16, 2010. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on December 30, 2010.

The Notice of Allowability

A review of the Notice of Allowability reveals that the Notice clearly required drawings. The Notice states: "CORRECTED DRAWINGS must be submitted."

The statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Here, Applicant filed a reply on November 15, 2010, to with – the issue fee; however, corrected drawings were also required. Applicant failed to timely file corrected drawings. The application was properly abandoned.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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Commissioner for Patents
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LEXYOUME IP GROUP, PLLC
5180 PARKSTONE DRIVE, SUITE 175
CHANTILLY, VA 20151

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application of
Do-Sung Kim, et al.
Application No. 11/573,975
Filed: February 20, 2007
Attorney Docket No.: KPE20090109US

ON PETITION

This is a decision in response to the communication, filed February 11, 2011, which is being treated as a petition to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED** because it is unsigned. It is noted that the signature page is missing, since the "petition" consists of page 1 of Form PTO/SB/64, which is a 2-page form entitled "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)."

37 CFR 1.33(b) states that:

Amendments and other papers filed in the application must be signed by:

(1) An attorney or agent of record appointed in compliance with §1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);

(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) 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, 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)(III)(C) and (D).

Petitioner has supplied the reply in the form of replacement drawings and the petition fee of $1,620; however, the petition lacks an adequate statement of unintentional delay. See item (3) above.

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and any omissions noted above.

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 decision may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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OFFICE OF PETITIONS

LEXYOUME IP GROUP, PLLC
5180 PARKSTONE DRIVE, SUITE 175
CHANTILLY, VA 20151

In re Application of Do-Sung Kim, et al. Application No. 11/573,975 Filed: February 20, 2007 Attorney Docket No.: KPE20090109US	: : : : :	ON PETITION

This is a decision on the petition, filed March 25, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before December 16, 2010, as required by the Notice of Allowability mailed September 16, 2010. A Notice of Abandonment was mailed on December 30, 2010. In response, on March 25, 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 formal drawings, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed February 11, 2011 and for processing into a patent.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SEP 28 2010

OFFICE OF PETITIONS

ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

In re Patent No. 7,705,025
Finley et al.
Issue Date: April 27, 2010
Application No. 11/574,044
Filed: February 21, 2007
Attorney Docket No. X16743
Title: HISTAMINE H3 RECEPTOR AGENTS, PREPARATION AND THERAPEUTIC USES

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 27, 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 four hundred fifty-six (456) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred ninety-three (393) days is **GRANTED to the extent indicated herein.**

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 05-0840. No additional fees are required.

Patentees contend an entitlement to an additional 85 days for the failure of the Office to issue the patent within four months of the payment of the issue fee and 63 days for the failure of the Office to issue the patent with in three years after the national stage commenced under 35 U.S.C. 371(b).

Pursuant to 37 CFR 1.703(a)(6) an adjustment for examination delay is the number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were

satisfied and ending on the date a patent was issued. In this instance the issue fee was submitted on October 1, 2009. Thus, the Office had four months (until February 1, 2010) before delay would be attributed. As such, an additional 85 day adjustment for Office delay is warranted (February 2, 2010 to April 27, 2010).

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 393 (308 + 85) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 63 days (February 24, 2010 to April 27, 2010 the day of issuance of the patent.

However, review of the record shows that 63 days overlap (February 24, 2010 to April 27, 2010).

In view thereof, the patent is entitled to an overall adjustment of 393 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three **hundred ninety-three (393) days.**

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,705,025 B2

DATED : **April 27, 2010** **DRAFT**

INVENTOR(S) : Finley 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 308 days

Delete the phrase "by 308 days" and insert – by 393 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 12, 2010

TO SPE OF : ART UNIT 1626
SUBJECT : Request for Certificate of Correction for Appl. No/11/574076-7737135

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: All changes approved.

/Joseph K. McKane/ **1626**
SPE **Art Unit**

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CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO
5 BECKER FARM ROAD
ROSELAND, NJ 07068

MAILED

AUG 30 2010

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Jurgen Ficker, et al. :
Application No. 11/574,139 :
Filed: August 29, 2007 :
Attorney Docket No. None :

This is a decision in response to the petition, filed June 21, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **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 timely pay the issue and publication fees on or before June 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 2, 2010.

Petitioner asserts that the Notice of March 1, 2010 was not received. In support petitioner submits a copy of the firm's docket records during the period in question, as well as a copy of the undersigned personal docket system.

A review of the written record indicates no irregularity in the mailing of the Notice on March 1, 2010, 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.

The instant petition does not establish non-receipt of the Notice in compliance with the procedures set for at MPEP 711.03(c). Specifically, while the petition describes the system used for recording an Office action received at the correspondence address of record, there is no statement establishing the reliability of the docketing system. Further, there is no statement that a search of the file jacket or equivalent was made and that the application contents thereof indicates that the Notice of March 1, 2010 was not received.

Absent the required evidence to establish non-receipt of the Notice of March 1, 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 required petition fee and reply.

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[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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5 BECKER FARM ROAD
ROSELAND, NJ 07068

MAILED

OCT 29 2010

OFFICE OF PETITIONS

In re Application of :
Jurgen Ficker, et al. :
Application No. 11/574,139 : ON PETITION
Filed: August 29, 2007 :
Attorney Docket No.: 411000-153 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 30, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 1, 2010, as required by the Notice of Allowance and Fee(s) Due mailed March 1, 2010. A Notice of Abandonment was mailed on June 15, 2010. On August 30, 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 $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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.
11/574,151	02/23/2007	Nobuyuki Tonegawa	00862.122239.	1186

5514 7590 09/09/2010
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2449	

MAIL DATE	DELIVERY MODE
09/09/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 09 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Christian Mannino
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-38008

In re Application of: TONEGAWA, N.
Application No. **11/574,151**
Filed: Feb 23, 2007
Docket No. 00862.122239
Title: TRANSMISSION, APPARATUS, RECEPTION APPARATUS, CONTROL, METHOD THEREOF, COMMUNICATION SYSTEM, AND PROGRAM

DECISION ON PETITION FOR SUSPENSION UNDER 37 C.F.R. § 1.103(c)

This is a decision on petition for suspension of action by Office filed June 28, 2010 presumably under 37 CFR § 1.103(c) for a period of THREE MONTHS. This request is accompanied by a showing of a cause for the suspension of action, as well as the fee set forth in §1.17(h).

This petition is **DENIED**.

This petition sets forth that the cause is "*in order to permit time to conduct a telephone interview with the Examiner*".

A request for an interview prior to first action on a continuing or substitute application should ordinarily be granted (MPEP §706.07(b)). The telephone number of the Examiner provided in the office action should be called if the application is to be discussed or an interview arranged (MPEP §707.08). Examiners may grant one interview after final rejection. See MPEP § 713.09. See 713.01 III Scheduling and conduction an Interview including Applicant Initiated Interview Request form (PTOL-413A).

The above stated reasons are not considered as good and sufficient causes to warrant a suspension of action for a period of three months. The application file will be taken up for action by the examiner in the order provided in MPEP 708 Order of Examination.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Beatriz Prieto/
Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400,
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/574,151	02/23/2007	Nobuyuki Tonegawa	00862.122239.	1186

5514 7590 10/01/2010
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2449	

MAIL DATE	DELIVERY MODE
10/01/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAILED

OCT 01 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Christian Mannino
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-38008

In re Application of: TONEGAWA, N.
Application No. **11/574,151**
Filed: Feb 23, 2007
Docket No. 00862.122239
Title: TRANSMISSION, APPARATUS, RECEPTION APPARATUS, CONTROL, METHOD THEREOF, COMMUNICATION SYSTEM, AND PROGRAM

DECISION ON PETITION FOR SUSPENSION UNDER 37 C.F.R. § 1.103(c)

This is a decision on petition for suspension of action by Office filed June 28, 2010 under §1.103(c) accompanied by a Request for Continued Examination (RCE) for THREE MONTHS, as well as the fee set forth in §1.17(h).

Previous petition decision mailed 09/09/10 on the above mentioned petition is hereby **rescinded (vacated)**.

This petition is hereby **GRANTED**.

Non-final Office action mailed 07/20/10 is hereby **withdrawn**.

Examiner is to favorably consider applicant's request for interview.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Beatriz Prieto/
Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400,
Network, Multiplexing, Cable and Security

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PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO IL 60680

MAILED
MAY 17 2011
PCT LEGAL ADMINISTRATION

In re Application of CABALLERO et al. Application No.: 11/574,179 PCT No.: PCT/US2004/040618 Int. Filing Date: 06 December 2004 Priority Date: 23 August 2004 Attorney Docket No.: MCEA-USP6-04 For: COMPUTER SYSTEM MANAGING AN INSURANCE RESERVE REQUIREMENT BY SEGMENTING A REINSURANCE TRANSACTION	DECISION ON PETITIONS UNDER 37 CFR 1.78(a)(3) AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 13 October 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **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) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11. The amendment filed 13 October 2010 does not identify the relationship between the instant application and international application PCT/US2004/037000.[1] Accordingly, the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable. The supplemental ADS filed 13 October 2010 also fails to identify the relationship between the instant application and international application PCT/US2004/037000.

Accordingly, before the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and either a proper Application Data Sheet (complying with 37 CFR 1.76(b)(5)) or a proper amendment (complying with 37 CFR 1.121) indicating the relationship between the instant application and PCT/US2004/037000 are required.

The petition fee has been paid.

The request for corrected Filing Receipt filed 13 October 2010 is **refused** for the reasons set forth above.

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.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3301

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

[1] It appears that applicant is seeking to claim domestic benefit to international application PCT/US2004/037000 for which the proper relationship is not specified. Although the Filing Receipt mailed 12 August 2008 lists international application PCT/US2004/037000 under "Foreign Applications" and the supplemental ADS filed by applicants on 13 October 2010 lists international application PCT/US2004/037000 under "Foreign Priority Information," applicant cannot claim benefit of provisional applications 60/517,180 and 60/603,608 through a foreign priority claim.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/574,196	07/26/2007	Antoon Visser	18486US01	1600

23446 7590 04/21/2011
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
LI, WEI

ART UNIT	PAPER NUMBER
3718	

NOTIFICATION DATE	DELIVERY MODE
04/21/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mhmpto@mcandrews-ip.com

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of:
VISSER, ANTOON et al
Serial No. 11/574,196
Filed: July 26, 2007
Docket: 18486US01
Title: GAMING MACHINE WITH SPLIT SYMBOLS

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition and request under 37 CFR 1.59(b), filed October 20, 2009 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) has been charged to Deposit Account #130017 in accordance with a telephone conversation with the applicant's attorney Mr. Larry Jarvis on April 19, 2011.

In the petition, the petitioner states that the Information Disclosure Statement filed on October 7, 2009 under EFS ID No. 6219211 (total 37 pages) was filed inadvertently or unintentionally. The IDS papers bear a wrong serial number 11/573,427. Petitioner requests removal of the inadvertently filed IDS.

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has unintentionally filed the wrong documents on October 7, 2009 (not October 8, 2009 as indicated in the petition), the documents have been blocked from public view in the Public Pair system.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Angela D. Sykes for

Donald T. Hajec, Director
Technology Center 3700

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Commissioner for Patents
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LEVINE BAGADE HAN, LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

MAILED

SEP 28 2011

OFFICE OF PETITIONS

In re Application of	:	
E. Skott Greenhalgh, et. al.	:	
Application No. 11/574,222	:	DECISION ON PETITION
Filed: March 25, 2008	:	TO WITHDRAW FROM
Attorney Docket No. STTMNZ00300	:	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 September 19, 2011.

The request is **APPROVED**.

The request was signed by David A. Levine on behalf of himself and all the attorneys/agents associated with Customer Number 40518. Therefore, David A. Levine and all the attorneys/agents associated with Customer Number 40518 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an outstanding Office action mailed on April 25, 2011, that requires a reply from the applicant.

All future communications from the Office will be directed to the intervening assignee who complied with the requirements of 37 CFR 3.73(b) at the address listed below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Prodesco, Inc.
700 West Park Avenue
Perkasie, PA 18944

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/574,222	03/25/2008	E. Skott Greenhalgh	STTMNZ00300

CONFIRMATION NO. 1962

POWER OF ATTORNEY NOTICE

40518
LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

OC000000050076060

Date Mailed: 09/28/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/19/2011.

- 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.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/574,231	09/27/2007	Abbas Rastegar	US04 0342 US2	2076

65913 7590 03/16/2011
NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

EXAMINER
CAMPBELL, NATASHA N.

ART UNIT	PAPER NUMBER
1714	

NOTIFICATION DATE	DELIVERY MODE
03/16/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

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www.uspto.gov

3/16/2011

wk

Mailed:

In re application of	:	
Rastegar et al.	:	DECISION ON
Serial No. 11/574,231	:	PETITION
Filed: September 27, 2007	:	
For: HOT SOURCE CLEANING SYSTEM		

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on January 17, 2011, to withdraw the final status of the office action dated November 24, 2010. Applicants state that the finality of the Office Action is improper because the Final Office Action, for the first time, asserts Fig. 1 of the Takeda reference, instead of Fig. 2. and that the current rejection of claims 1-5 and 12 states that the Takeda reference only needs two modifications, not the three previously included in the 103(a) rejection of the claims.

In the Non-Final Office Action of May 20, 2010, the Examiner rejected claims 1-5 and 12 under 35 USC 103(a) over Takeda et al. in view of Hazan et al. The Examiner referenced Figure 2, elements 4, 14a, 14 b, 42, 29 and 22 of the Takeda reference. The Examiner also referenced Figure 1, element 4.

Applicants responded on August 19, 2010 and did not amend the claims. In the Final Office Action of November 24, 2010, the Examiner references Figure 1, elements 4 and 42 and Figure 2, elements 14a, 14b, 29. Figure 1 of Takeda et el. is a schematic view illustrating the structure of the etching device and Figure 2 is a cross-sectional view illustrating the structure of the etching device. Both figures reference the same device.

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).

The Final Office Acton did not introduce a new ground of rejection.

DECISION

The petition for withdrawal of finality is **DENIED.**

/SHARON GIBSON/
Director, Technology Center 1700
Chemical and Materials Engineering

Robert J. Crawford
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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Commissioner for Patents
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OCT 27 2011

OFFICE OF PETITIONS

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of	:	
Uri PICK et al.	:	ON PETITION
Application No. 11/574,506	:	
Filed: July 6, 2007	:	
Atty. Docket No.: 51955		

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 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 March 29, 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. The application became abandoned June 30, 2010. A Notice of Abandonment was mailed October 12, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE), and RCE fee, and 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 final Office action is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 1638 for further consideration of the filed submission.

Anthony Knight
Director
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/574,538	10/16/2007	Makoto Kodama	Q100098	5884

23373 7590 12/02/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
SCHILLINGER, ANN M

ART UNIT	PAPER NUMBER
3774	

NOTIFICATION DATE	DELIVERY MODE
12/02/2010	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):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of:	
KODAMA, MAKOTO et al	
Serial No.: 11/574,538	
Filed: Oct. 16, 2007	DECISION ON PETITION
Docket: Q100098	
Title: ARTIFICIAL BLOOD VESSEL	

This is a decision on the petition filed on November 23, 2010 seeking withdrawal of the finality of the Office action mailed August 13, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the November 23, 2010 petition, the petitioner requests the finality of the Office action of September 15, 2010 be reconsidered and withdrawn because the applicant believes that the final rejection of September 15, 2010 is premature. In particular, petitioner believes the examiner's final rejection was not necessitated by any claim amendment. A review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of September 15, 2010. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of September 15, 2010 will not be granted. .

For reason as stated above, petitioner's request to withdraw the finality of the Office action dated September 15, 2010 is dismissed as untimely. This application is forwarded to the examiner via the Supervisory Patent Examiner, Art Unit 3774 for consideration of Rule 116 amendment filed on November 23, 2010.

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Angela D. Sykes, Director
Technology Center 3700

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Application of :
Jun Nakagawa, et al. :
Application No. 11/574,574 : DECISION ON PETITION
Filed: March 1, 2007 :
Attorney Docket No. 082418-001400US :

This is a decision on the petition, filed July 2, 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 timely pay the issue and publication fees on or before June 1, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 1, 2010. A Notice of Abandonment was mailed June 15, 2010.

Petitioner asserts that the Notice dated March 1, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the 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 had it been received must be attached to and referenced in the practitioners 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. In this regard, petition does not include 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.

Accordingly, absent the required evidence to establish non-receipt of the Notice of Allowance, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision should be filed within **TWO (2) MONTHS** from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M., Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4100.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of
Jun Nakagawa, et al.
Application No. 11/574,574
Filed: March 1, 2007
Attorney Docket No. 082418-001400US

DECISION ON PETITION

This is a decision on the renewed petition, filed September 9, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before June 1, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 1, 2010. A Notice of Abandonment was mailed June 15, 2010.

Petitioner asserts that the Notice dated March 1, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and, in the absence of any irregularity, there is a strong presumption that the 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**.

Since petitioner has already satisfied the requirements listed in the Notice of Allowance by providing payment for the Issue fee and publication fee, this application is being forwarded to the Office of Data Management for further processing in accordance with this decision on petition.

Telephone inquiries concerning this decision should be directed to April M., Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4100.

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/07/11

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 11574625 Patent No.: 7788027

CofC mailroom date: 01/19/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

_____
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

/Thomas G. Black/ 3661

SPE Art Unit

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United States Patent and Trademark Office
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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Patent of Alan H. Jones :
Patent No. 7,788,027 :
Issue Date: August 30, 2010 : Decision on Petition
Application No. 11/574,625 :
371(c) Date: March 2, 2007 :
Attorney Docket No. MRKS/X005 :

This is a decision on the "Petition to Resubmit Lost Document" filed January 19, 2011, which is being treated as a petition under 37 C.F.R. § 1.182 requesting issuance of the certificate of correction filed January 19, 2011.

The petition is **dismissed**.

Background

The instant application is the national stage of International Application No. PCT/EP05/54386.

The date the application complied with all the requirements under 35 U.S.C. §§ 371(c)(1), (c)(2), and (c)(4) is March 2, 2007. The date of completion of all requirements under 35 U.S.C. § 371 and the date of commencement is March 10, 2007.

The application papers filed on March 2, 2007, included a copy of an International Search Report. The International Search Report cited EP 1059508, US 2003/020816 A1, and US 2003/182246 A1, and US 5,539,645 A.

The application papers filed on March 2, 2007, included an information disclosure statement ("IDS") form. Excluding the pre-printed information on the IDS form, the form is blank. In other words, the IDS does not list any references.

The application papers filed on March 2, 2007, included copies of the following foreign patent documents: EP 1253401 A2, EP 1059508 A1, and UK 2130374 A.

The instant application includes a claim for foreign priority to UK 0420095.2. The application papers filed on March 2, 2007, included a copy of a "Search Report under Section 17" for

UK 0420095.2. The report identifies the following four "relevant" documents: US 6,041,280 A, UK 2130374 A, EP 1253401 A1, and US 6,314,368 B1.

The examiner was required to consider the references cited in the International Search Report pursuant to M.P.E.P. § 609.03, which states,

> The examiner will consider the documents cited in the international search report in a PCT national stage application when the Form PCT/DO/EO/903 indicates that both the international search report and the copies of the documents are present in the national stage file. In such a case, the examiner should consider the documents from the international search report and indicate by a statement in the first Office action that the information has been considered.

M.P.E.P. § 609.03 quotes Form Paragraph 6.53, which includes language an examiner may use when the examiner considers documents cited in an international search report, but not in an ADS. Form Paragraph 6.53 states,

> The references cited in the Search Report [1] have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

The Office issued a non-final Office action on January 20, 2010. The non-final Office action stated,

> The prior art submitted on March 2, 2007 has been considered.... Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which have been placed of record in the file.

The examiner entered the following three references as references cited by applicant based on the Office's receipt of a copy of each reference: EP 1253401, EP 1059508, and UK 2130374.

The application issued as a patent on August 31, 2010. The "References Cited" portion of the patent identifies three references cited by the examiner, EP 1253401, EP 1059508, and UK 2130374.

Discussion

The petition includes a copy of an IDS and states, "the attached document is the same as the document originally submitted and mentioned in the Electronic Acknowledgment Receipt ("E-Receipt"). The IDS filed with the petition cites several references.

The petition requests the Office issue a certificate of correction adding references identified in the January 19, 2011 IDS to the References Cited section of the patent.

The E-Receipt for the papers filed March 2, 2007, indicates the fifth document filed March 2, 2007, was a four-page document named "MRKSX005_IDS_SB08a.pdf" with a file size of 708,090 bytes.

The E-Receipt for the papers filed January 19, 2011, indicates the third document filed January 19, 2011, is a seven-page document named "IDS_filed_030207.pdf" with a file size of 281,655 bytes.

The IDS filed January 19, 2011, has a different file name, different number of pages, and different size than the March 2, 2007 IDS. Therefore, the Office is not persuaded the January 19, 2011 IDS is the same as the March 2, 2007 IDS.

In view of the prior discussion, the record is insufficient to establish the IDS filed March 2, 2007, included the references cited in the January 19, 2011 IDS, and the requested certificate of correction will not be issued.

The Certificates of Correction Branch will be informed of the instant decision to ensure the certificate of correction filed January 19, 2011 is NOT inadvertently issued.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 25 2010
OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
David J. Grainger et al.	:	
Application No. 11/574,656	:	CORRECTED DECISION ON
Filed: December 17, 2007	:	PETITION TO WITHDRAW
Attorney Docket No. 1543.008US1	:	FROM RECORD
	:	

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 15, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

If an assignee has ownership in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : May 17, 2011
Patent No. : 7,903,753 B2
Ser. No. :11/574725
Issued March 8, 2011
Inventor(s) : Seung-Joon Lee, et al.
Title : STRUCTURED SPACE-TIME CODE ACHIEVING THE FULL DIVERSITY AND FULL RATE AND GENERATING METHOD THEREOF, AND MULTI-INPUT MULTI-OUTPUT SYSTEM

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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 1

Ampacc Law Group, PLLC
6100 219th Street, SW, Ste. 580
Mountlake Terrace, WA 98043

CBN/mt

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OFFICE OF PETITIONS

AMPACC Law Group, PLLC
6100 219th Street SW, Suite 580
Mountlake Terrace WA 98043

In re Patent No. 7,903,753 :
Issue Date: March 8, 2011 :
Application No. 11/574,725 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. 110PK-000800US :

This is a decision on the petition filed May 6, 2011, which is being treated as a petition under 37 CFR 3.81(b) to add assignee AJOU University Industry Cooperation Foundation, on the front page of the above-identified patent by way of a certificate of correction.

The petition 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(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment reflecting the addition of AJOU University Industry Cooperation Foundation as a joint assignee was recorded on May 2, 2011, **after the date of issuance of this patent**. Accordingly, since the corrective assignment reflecting the additional assignee name was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Charlema Grant
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMPACC Law Group, PLLC
6100 219th Street SW, Suite 580
Mountlake Terrace WA 98043

MAILED
SEP 20 2011
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In re Patent No. 7,903,753 :
Issue Date: March 8, 2011 :
Application No. 11/574,725 :
Filed: January 9, 2008 :
Attorney Docket No. 110PK-000800US :

ON PETITION

This is a decision on the renewed petition filed July 21, 2011, which is being treated as a petition under 37 CFR 3.81(b) to add assignee AJOU University Industry Cooperation Foundation, on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Application of
Thomas JOST, et *al.*
Application No. 11/574,780
Filed: September 11, 2007
Attorney Docket No. **14219-146US1**
P2004,0711 U

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2833 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
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/574,793	10/30/2008	J. Marc Simard	HO-P03017US3	9484

26271 7590 11/18/2010
FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

EXAMINER
HOWARD, ZACHARY C

ART UNIT	PAPER NUMBER
1646	

NOTIFICATION DATE	DELIVERY MODE
11/18/2010	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):

nstacey@fulbright.com
twrye@fulbright.com
hoipdocket@fulbright.com

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NOV 1 8 2010

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

In re Application of:	:
Simard et al.	:
Serial No.: 11/574,793	: PETITION DECISION
Filed: October 30, 2008	:
Attorney Docket No.: **HO-P03017US3**	

This is in response to the petition under 37 CFR § 1.59(b), filed April 21, 2010, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that papers inadvertently filed on April 19, 2010 in the instant application be expunged. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for the documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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INSKEEP INTELLECTUAL PROPERTY GROUP, INC
2281 W. 190TH STREET
SUITE 200
TORRANCE, CA 90504

MAILED
MAY 16 2011
PCT LEGAL ADMINISTRATION

In re Application of :
MILLER, Brian :
Application No.: 11/574,810 :
Filing Date: 06 March 2007 :
Docket No.: 22109-506/US :
For: VARIABLE COMPLIANCE WHEEL :

DECISION

This Decision is in response to applicant's petition to vacate the Notification of Abandonment (Form PCT/DO/EO/909), filed in the United States Patent and Trademark Office on 08 February 2011.

On 15 February 2008, the Office mailed Notification, vacating the Notification of Missing Requirements mailed 03 December 2007. It stated that as this application is a filing under 35 USC 111(a), not under 35 USC 371, a Notification of Missing Requirements should not have issued.

On 08 February 2011, the Office mailed Notification of Abandonment indicating that this application went abandoned for failure to timely respond to the 03 December 2007 Notification.

As the 03 December 2007 Notification was vacated and not other Notification has issued, applicants have not failed to reply to any notice. The Notification of Abandonment mailed 08 February 2011 issued in error and is **VACATED**.

This application is being returned to the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Joseph Patrick Kelleher, et al.	:	
Application No. 11/574,921	:	ON PETITION
Filed: August 22, 2007	:	
Attorney Docket No. **1223-045**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 19, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 20, 2010.

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 Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

As to item (3) the statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (**or other paper**) or one not properly signed by a person having authority to prosecute the application is not entered. Therefore, since the petition is not signed the entire delay statement is not acceptable.

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 571-272-4584

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Joseph Patrick Kelleher, et al.	:	
Application No. 11/574,921	:	ON PETITION
Filed: August 22, 2007	:	
Attorney Docket No. **1223-045**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2011, to revive the above-identified application.

Petitioner was informed in the previous decision of December 6, 2010, that a renewed petition must be filed within two (2) months from the mailed date of the decision. Accordingly, a renewed petition had to be filed on or before February 6, 2011, to be considered timely. Therefore, a one (1) month extension of time in the amount of $130 is being charged to petitioner's deposit account as authorized [1].

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 hereby **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted on November 22, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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[1] It is noted that a certificate of mailing was filed with the instant petition; however, it lacks the signature and date that petitioner was depositing the documents.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2863 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
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21 SEP 2010

Mitsubishi Electric Research Laboratories, Inc.
201 Broadway
8th Floor
Cambridge, MA 02139

In re Application of BHATTI, Ghulam M. U.S. Application No.: 11/574,922 PCT No.: PCT/US05/22271 Int. Filing Date: 24 June 2005 Priority Date: None Attorney Docket No.: MERL-1679 For: METHOD FOR DISCOVERING ROUTES IN WIRELESS COMMUNICATIONS NETWORKS	DECISION ON PETITIONS

The petition to revive under 37 CFR 1.137(b) filed 10 June 2009 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the required reply (additional claim fee(s)) and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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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FREDRIKSON & BYRON, P.A.
INTELLECTUAL PROPERTY GROUP
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS MN 55402

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of	:	
HSU, et al	:	
Application No. 11/574,928	:	DECISION ON PETITION
Filed: June 6, 2008	:	TO WITHDRAW
Attorney Docket No. 43305.12.0.65.1.1	:	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 April 27, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the change of correspondence address cannot be accepted. The Office will either change the correspondence address of record to the most current address information provided for an assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *"An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement incompliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee."*

Therefore, as there is currently no updated 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 as indicated on the Request to Withdraw at this time.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: DERMATRENDS, INC.
3109 WEST 50TH STREET, #337
MINNEAPOLIS, MN 55410

SHERIDAN ROSS pc attorneys at innovation

facsimile cover sheet

Date:	August 23, 2010
Please deliver the following page(s) to:	Examiner Michael C. Wilson
Facsimile Number:	571-273-0738
Sender's Name:	Richard J. Stern, Ph.D.
Total Number of Pages, including this cover page:	6
SR Reference No.:	6137NIDCR-1-PUS
Your Reference No.:	

Message:

Per our discussion last Friday, August 20, 2010, please find attached for discussion a draft amendment and response for U.S. Patent Application Serial No. 11/574,954.

PLEASE CONFIRM RECEIPT

If you do not receive all the pages, please call (303) 863-9700

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1560 Broadway / Suite 1200 / Denver, Colorado 80202-5141 / P 303.863.9700 / F 303.863.0223 / www.sheridanross.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

App. No.: 11/574,954	)	Confirmation No.: 1564
Applicant: Chiorini et al.	)	TC/A.U.: 1632
Filed: March 8, 2007	)	Examiner: WILSON, Michael C.
Docket No.: 6137NIDCR-1-PUS	)	
For: "TRANSCYTOSIS OF ADENO-ASSOCIATED VIRUSES"	)	**DRAFT AMENDMENT AND RESPONSE**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed from the United States Patent and Trademark Office (USPTO) on April 1, 2010, and the interview held with Examiner Wilson on August 5, 2010, Applicants submit the following DRAFT Amendment and Response.

Please amend the above-identified patent application as follows:

Amendments to the Claims are shown in the listing of claims which begins on page 2 of this paper.

Remarks begin on page 3 of this paper.

For Discussion purposes only.
Do not enter.
MCW
8-25-10

Amendments to the Claims:

Please amend claim 71 as follows:

71. (Amended) A method of ~~transcytosis~~ expressing a heterologous nucleic acid in a sub-epithelial target comprising introducing a BAAV vector comprising ~~a~~ the heterologous nucleic acid ~~sequence~~ to the apical surface of cells of an epithelial barrier ~~such that said~~, wherein the BAAV vector transcytoses ~~from the apical surface to the basolateral surface of~~ said cells of the epithelial barrier and expresses the heterologous nucleic acid in the sub-epithelial target.

PAGE 3/6 * RCVD AT 8/23/2010 4:28:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/28 * DNIS:2730738 * CSID:3038630223 * DURATION (mm-ss):01-50

REMARKS

Claim 71 has been amended to clarify the claimed invention. Specifically, claim 71 is now drawn to a method of expressing a heterologous nucleic acid in a sub-epithelial target by introducing a BAAV vector comprising the heterologous nucleic acid to the apical surface of an epithelial barrier, wherein the vector transcytoses the epithelial barrier cells and expresses the nucleic acid in the sub-epithelial target. Support for this claim can be found in the specification, for example, on page 2, lines 7-8. Accordingly, Applicants submit that no new matter has been entered into the specification.

Rejections under 35 U.S.C. 103(a)

The Examiner has rejected claims 71, 74 and 78-82 as obvious in view of Janson in view of Schmidt and Arbetman.

Janson teaches sub-cortical injection of recombinant AAV (i.e., AAV2) into the brain parenchyma of patients suffering from Canavan disease in order to effect delivery of a functional aspartoacylase gene to parenchymal brain cells. The injection method includes drilling burrholes through the calvarium in order to enable injection into the parenchyma. The AAV vector transduces the parenchymal brain cells, thereby effecting expression of the aspartoacylase gene in such cells. Schmidt teaches injection of a B-galactosidase-encoding BAAV vector into a salivary gland through a cannula to effect transduction; Schmidt further teaches that such transduction results in levels of viral DNA and of B-galactosidase that are higher than those observed when the same procedure is performed using recombinant AAV2. Arbetman teaches that human sera reacts with AAV2 but does not react with BAAV. Thus, if one skilled in the art replaced the AAV of Janson with the BAAV taught by Schmidt and Arbetman, the expected result would be increased levels of expression of the heterologous nucleic acid within brain parenchymal cells as a result of increased efficiency of transduction of such cells. This expected result, however, is in sharp contrast to what the present application teaches and claims.

Applicant's invention is method to express a heterologous nucleic acid in a sub-epithelial target that does not require direct administration to that target (e.g., by injection). Specifically, the present application teaches that when a BAAV vector comprising a heterologous nucleic acid is introduced to the apical surface of an epithelial barrier, the vector transcytoses the epithelial barrier (i.e., passes through the epithelial barrier) to sub-epithelial cells that are transduced by the

PAGE 4/6 * RCVD AT 8/23/2010 4:28:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/28 * DNIS:2730738 * CSID:3038630223 * DURATION (mm-ss):01-50

vector (sub-epithelial target). Thus, expression of the heterologous nucleic acid occurs in cells other than the epithelial barrier cells first contacted by the vector. The combination of Janson, Schmidt, and Arbetman fails to teach BAAV transcytosis of an epithelial barrier and expression in a sub-epithelial target. Moreover, since the cited references teach transduction of the cells to which the vector was introduced rather than transcytosis of such cells, the cited references are not pertinent to the claims of the application.

The arguments with respect to the first rejection are also applicable to the remaining five rejections. That is, references cited in each rejection teach transduction of the cells to which a vector is introduced. The invention, in contrast, teaches transcytosis of the epithelial barrier cells to which the vector is introduced, wherein the vector upon passing through the epithelial barrier, expresses the heterologous nucleic acid in a sub-epithelial target. Drapkin, for example, (e.g., in rejection II of Claims 71, 74, 76, 77, 83-86 over Drapkin, in view of Schmidt and Arbetman) teaches methods to improve transduction of human airway epithelia grown on a collagen-coated polycarbonate filter by introducing AAV (i.e., AAV2) expressing beta-galactosidase to epithelia pretreated with urokinase plasminogen activator. If one skilled in the art replaced the AAV of Drapkin with the BAAV taught by Schmidt and Arbetman, the expected result would be increased levels of expression of the heterologous nucleic acid within the epithelia as a result of increased efficiency of transduction of these cells. The present application, in contrast, teaches that introduction of BAAV to human airway epithelia cells leads to transcytosis rather than transduction of such cells. The ability of the BAAV vector to cross, or pass through, the epithelial barrier results in heterologous nucleic acid expression in a sub-epithelial target rather than in the epithelial barrier itself.

PAGE 5/6 * RCVD AT 8/23/2010 4:28:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/28 * DNIS:2730738 * CSID:3038630223 * DURATION (mm-ss):01-50

CONCLUSION

Based on the foregoing, Applicants believe that claim 71 is in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted.
SHERIDAN ROSS P.C.

Date: _____ By: _____

Richard J. Stern
Registration No. 50,668
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-2975

PAGE 6/6 * RCVD AT 8/23/2010 4:28:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/28 * DNIS:2730738 * CSID:3038630223 * DURATION (mm-ss):01-50

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DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO ON M5H 2L7 CA CANADA

MAILED

AUG 02 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Christopher Morris :
Application No. 11/574,965 :
Filed: March 8, 2007 :
Attorney Docket No. JJ-12 805-1US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 22, 2010, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3732 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENNISON ASSOCIATES
133 RICHMOND STREET WEST
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TORONTO ON M5H 2L7 CA
CANADA

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Christopher Morris :
Application No. 11/574,965 :
Filed: March 8, 2007 :
Attorney Docket No. JJ-12 805-1US :

CORRECTED DECISION

This is a corrected decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2010, to revive the above-identified application. The decision mailed August 2, 2010 is vacated.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of 810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of the continuing application.

Petitioner is reminded that in order to perfect the claim for priority, the first line of the specification of U.S. Patent Application 12/774,716 should be amended to specifically reference the present application or an application data sheet should be filed that makes the specific reference to the present application.

Applicant's priority claim as currently set forth does not include the relationship between this application and 12/774,716. Such amendment must be filed within four months of the filing date of the application to be timely. **Petitioner has until September 5, 2010 to make such amendment without incurring any additional fees.**

In particular, applicant must set forth the relationship of the present application to that of application 12/774,716. For example, applicant may want to use the following priority claim.

"This application is a continuation of U.S. Patent Application No. 11/574,965."

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Anthony Knight
Director
Office of Petitions

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APR 05 2011
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THE LAW OFFICE OF MICHAEL E. KONDOUDIS
888 16TH STREET, N.W., SUITE 800
WASHINGTON, DC 20006

In re Application of	:	
Boris Kashmakov et al	:	
Application No. 11/574,979	:	ON PETITION
Filed: March 9, 2007	:	
Attorney Docket No. 7232	:	

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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 16, 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). Three month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 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 a Request for Continued Examination (RCE) and fee of $405 the submission required by 37 CFR 1.114; (2) the petition fee of $810 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3771 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed March 2, 2011 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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DEC 16 2010

OFFICE OF PETITIONS

ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS, IN 46206-6288

In re Patent of Broughton et al.	:	
Patent No. 7,745,438	:	DECISION ON REQUEST
Issue Date: June 29, 2010	:	FOR RECONSIDERATION OF
Application No. 11/574,989	:	PATENT TERM ADJUSTMENT
371(c) Date: March 9, 2007	:	
Attorney Docket No. X-16940	:	

This is a decision on the petition filed July 29, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by five hundred ninety-nine (599) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The Office issued the patent on June 29, 2010. The patent set forth a patent term adjustment determination of 588 days. In response, Patentees timely filed the instant petition on July 29, 2010.

Patentees argue the correct patent term adjustment is 599 days, not 588 days, based on assertion the correct period of delay under 37 C.F.R. § 1.702(b) ("B Delay") is 111 days, not 100 days.

The application is the national stage of International Application No. PCT/US05/03327.

The U.S. national stage for an application commences under 35 U.S.C. § 371(b) on the date that is 30 months from the priority date of the PCT application unless the applicant files an express request for early processing and completes the requirements set forth in 35 U.S.C. § 371(c) prior to the 30 month date.

Patentees did not file a request for early processing under 35 U.S.C. § 371(f). Therefore, the date of commencement for the application is Wednesday, March 21, 2007, the date 30 months after the priority date.

37 C.F.R. § 1.703(b) states, with emphasis added,

> 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 [identified in 37 C.F.R. §§ 1.703(b)(1)-(4)].

The sum of the periods identified in 37 C.F.R. §§ 1.703(b)(1)-(4) is 0 days. Therefore, the period of B Delay is the number of days beginning on the day after the date three years after the date of commencement and ending on the date the patent issued.

The number of days beginning March 22, 2010, the day after the date three years after the date of commencement, and ending June 29, 2010, the date the patent issued, is 100 days. Therefore, the period of B Delay is 100 days.

In view of the prior discussion, the patent term adjustment remains 588 days.

The Office has charged the $200.00 fee set forth in 37 C.F.R. § 1.18(e) to Deposit Account No. 05-0840 pursuant to the general fee authorization in the petition.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/575,003	02/04/2008	Kostantin Godin	SC13322EI	2174

EXAMINER

7590 11/23/2010
FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN, TX 78729

ART UNIT	PAPER NUMBER
2833	

NOTIFICATION DATE	DELIVERY MODE
11/23/2010	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nione Jarmes

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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LARSON NEWMAN, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Lionel Riviere-Cazaux	:	
Application No. 11/575,004	:	DECISION ON PETITION
Filed: December 6, 2007	:	
Attorney Docket SC13466EI	:	

This is a decision on the Petition Under 37 CFR 1.59(b) to Expunge Information or Copy of Papers in Application file, filed March 7, 2011.

The petition is **dismissed**.

Petitioner requests that the declaration, filed on December 6, 2007, be expunged from the record. Petitioner states that this paper is not related to the prosecution of the present application and was meant for another application.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/575,025	02/11/2008	Guido Bold	093286-0192	2527

12919 7590 05/05/2011
Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington, DC 20004

EXAMINER
HABTE, KAHSAY

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
05/05/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAY 0 5 2011

Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington DC 20004

In re Application of:	:
Bold et al.	:
Serial No.: 11/575,025	: PETITION DECISION
Filed: February 11, 2008	:
Attorney Docket No.: **093286-0192**	

This is in response to the petition under 37 CFR § 1.59(b), filed April 22, 2011 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Proprietary Information Disclosure Statement submitted to the Patent Office on April 22, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/575,025	02/11/2008	Guido Bold	093286-0192	2527

12919 7590 05/05/2011
Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington, DC 20004

EXAMINER
HABTE, KAHSAY

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
05/05/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington DC 20004

In re Application of:	:
Bold et al.	:
Serial No.: 11/575,025	: PETITION DECISION
Filed: February 11, 2008	:
Attorney Docket No.: **093286-0192**	

This is in response to the petition under 37 CFR § 1.59(b), filed April 20, 2011 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Proprietary Information Disclosure Statement submitted to the Patent Office on April 20, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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MAY 0 5 2011

Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington DC 20004

In re Application of:	:
Bold et al.	:
Serial No.: 11/575,025	: PETITION DECISION
Filed: February 11, 2008	:
Attorney Docket No.: **093286-0192**	

This is in response to the petition under 37 CFR § 1.59(b), filed April 20, 2011 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Proprietary Information Disclosure Statement submitted to the Patent Office on April 20, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/575,025	02/11/2008	Guido Bold	093286-0192	2527

12919 7590 05/19/2011
Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington, DC 20004

EXAMINER
HABTE, KAHSAY

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
05/19/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAY 1 9 2011

Paul D. Strain
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In re Application of:	:
Bold et al.	:
Serial No.: 11/575,025	: PETITION DECISION
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This is in response to the petition under 37 CFR § 1.59(b), filed April 21, 2011 to expunge information from the above identified application. This application has not been allowed.

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This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/575,025	02/11/2008	Guido Bold	093286-0192	2527

12919 7590 06/13/2011
Paul D. Strain
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1455 Pennsylvania Ave NW, Suite 400
Washington, DC 20004

EXAMINER
HABTE, KAHSAY

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
06/13/2011	PAPER

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JUN 1 3 2011

Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington DC 20004

In re Application of:	:
Bold et al.	: PETITION DECISION
Serial No.: 11/575,025	:
Filed: February 11, 2008	:
Attorney Docket No.: **093286-0192**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed June 2, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner respectfully renew their request that the Proprietary Information Disclosure Statement (PIDS) filed April 20, 2011 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/575,025	02/11/2008	Guido Bold	093286-0192	2527

12919 7590 08/02/2011
Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington, DC 20004

EXAMINER
HABTE, KAHSAY

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
08/02/2011	PAPER

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AUG 0 2 2011

Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington DC 20004

In re Application of:	
Bold et al.	PETITION DECISION
Serial No.: 11/575,025	
Filed: February 11, 2008	
Attorney Docket No.: **093286-0192**	

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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.
11/575,025	02/11/2008	Guido Bold	093286-0192	2527

12919 7590 08/03/2011
Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington, DC 20004

EXAMINER
HABTE, KAHSAY

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
08/03/2011	PAPER

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AUG 03 2011

Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington DC 20004

In re Application of:	:
Bold et al.	: PETITION DECISION
Serial No.: 11/575,025	:
Filed: February 11, 2008	:
Attorney Docket No.: **093286-0192**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed June 2, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner respectfully renew their request that the Proprietary Information Disclosure Statement (PIDS) filed April 22, 2011 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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AUG 0 3 2011

Paul D. Strain
Strain & Strain, PLLC
1455 Pennsylvania Ave NW, Suite 400
Washington DC 20004

In re Application of:	:
Bold et al.	: PETITION DECISION
Serial No.: 11/575,025	:
Filed: February 11, 2008	:
Attorney Docket No.: **093286-0192**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed June 2, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner respectfully renew their request that the Proprietary Information Disclosure Statement (PIDS) filed April 21, 2011 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

J Burke for
/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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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.
11575025	11 February, 2008	BOLD ET AL.	093286-0192

		EXAMINER	
Paul D. Strain Strain & Strain, PLLC 1455 Pennsylvania Ave NW, Suite 400 Washington, DC 20004			
		ART UNIT	PAPER
			20110810-1

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

PTO-90C (Rev.04-03)

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MAILED
DEC 05 2011
OFFICE OF PETITIONS

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

In re Application of	:	
Klau Turina	:	
Application No. 11/575,124	:	DECISION ON PETITION
Filed: June 18, 2008	:	
Attorney Docket No. P18182-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2011, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 13, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed July 13, 2011. Accordingly, the date of abandonment of this application is October 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1740 and the publication fee of $300, (2) the petition fee of $1860; 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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MAILED

MAR 11 2011

PCT LEGAL ADMINISTRATION

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

In re Application of	:	
WALTON, Graeme Francis, et al.	:	DECISION ON
Application No.: 11/575,160	:	
PCT No.: PCT/AU2005/001385	:	PETITION
Int. Filing Date: 13 September 2005	:	
Priority Date: 13 September 2004	:	UNDER 37 CFR 1.181
Attorney Docket No.: WIY0103PUSA	:	
For: SAFETY SYRINGE	:	

This decision is in response to applicant's Petition Under 37 CFR 1.181 to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on 20 July 2010.

BACKGROUND

On 13 March 2007, applicants filed, *inter alia*, the basic national fee for the above application.

On 06 February 2008, applicants filed a declaration of the inventors and the surcharge for furnishing the search fee, examination fee or oath or declaration after 30 months from the priority date.

On 01 August 2008, the Office mailed Notification of Missing Requirements (PCT/DO/EO/905), indicating *inter alia* that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 16 September 2008, applicants filed "Communication" stating that the declaration and surcharge were previously filed on 06 February 2008 and that no further response to the 01 August 2008 was believed required.

On 13 May 2009, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification mailed 01 August 2008.

On 20 July 2010, applicants filed this petition to withdraw the holding of abandonment.

DISCUSSION

The Office was in receipt of a declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) before issuance of the Notification of Missing Requirements. The Form

PCT/DO/EO/905 issued in error and is vacated. Applicant timely replied to the Notification of Missing Requirements and notified the Office that the declaration and surcharge were previously filed. The Notification of Abandonment mailed 13 May 2009 issued in error and is hereby vacated.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 01 August 2008 is **VACATED**.

The Notification of Abandonment (Form PCT/DO/EO/905) mailed 13 May 2009 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for further processing in accordance with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 1/4/2011

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/575164 Patent No.: 7829528 B2

CofC mailroom date: 12/9/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The pending claims were not placed into the patent as stated by the atty.

KCC 1/13/2011

/Manjunath Rao/
SPE

AU. 1656
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
AUG 03 2011
OFFICE OF PETITIONS

MILLER, MATTHIAS & HULL LLP
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO IL 60606

In re Application of	:	
Latouche, et al.	:	
Application No.: 11/575,180	:	ON PETITION
Filed: March 13, 2007	:	
Attorney Docket No: 28944/50074	:	

This is in response to the petition under 37 CFR 1.137(b) filed July 25, 2011.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed August 5, 2010. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on December 6, 2010. A Notice of Abandonment was mailed on July 22, 2011.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Petitioner states that an amendment was previously filed on December 30, 2010. It is noted that an amendment was filed on December 30, 2010; however, the Notice of Abandonment mailed July 22, 2011, states that "...applicants response to the final Office action amends independent claims as well as dependent claims. The amendments have changed the scope of the claims, thus requires further search and consideration and does not leave the claim language in condition for allowance." As petitioner has not provided a proper response to the final Office action, the petition must be dismissed Either an amendment that places the application in condition for allowance, a Request for Continued Examination and the fee required, or a Notice of Appeal must accompany the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Questions regarding the amendment to be filed with the renewed petition must be addressed to Examiner Wong. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MILLER, MATTHIAS & HULL LLP
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO IL 60606

MAILED
AUG 18 2011
OFFICE OF PETITIONS

In re Application of :
Latouche, et al. :
Application No.: 11/575,180 : ON PETITION
Filed: March 13, 2007 :
Attorney Docket No: 28944/50074 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed August 5, 2010. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on December 6, 2010. A Notice of Abandonment was mailed on July 22, 2011.

The Request for Continued Examination and amendment filed August 9, 2011, are noted.

The application file is being forwarded to Technology Center 2600, GAU 2611 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Gunnar RYDNELL, et al	:	
Application No. 11/575,183	:	DECISION ON PETITION
Filed: November 16, 2007	:	
Docket No. P18837-US1	:	

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, March 30, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROTHWELL FIGG ERNST & MANBECK PC
1425 K STREET NW
SUITE 800
WASHINGTON DC 20005

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Choy, et al.	:	
Application No. 11/575,252	:	ON PETITION
Filed: March 14, 2007	:	
Attorney Docket No. 1751-0433	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 19, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply in response to the Office action mailed June 4, 2009. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on July 5, 2009. The Office mailed a Notice of Abandonment on December 16, 2009.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.

The application is being forwarded to Group Art Unit 1637 for consideration of the Election, filed May 19, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/575,262	03/14/2007	Goh Iwamoto	304536US3PCT	5631

22850 7590 12/21/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LANGMAN, JONATHAN C

ART UNIT	PAPER NUMBER
1784	

NOTIFICATION DATE	DELIVERY MODE
12/21/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed : 12/21/10

In re Application of
Iwamoto et al.
Serial No. 11/575,262
Filed: March 14, 2007
For: ALUMINUM-SILICON CARBIDE COMPOSITE

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on October 13, 2010 to consider the Information Disclosure Statement (IDS) that was filed on October 7, 2010. The record indicates that the Examiner considered the IDS on October 19, 2010.

DECISION

The petition is **DISMISSED**.

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

Gregory J. Maier
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GANZ LAW, P.C.
P O BOX 2200
HILLSBORO OR 97123

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Hardy et al.	:	DECISION ON PETITION
Application No. 11/575,300	:	TO WITHDRAW
Filed: July 3, 2008	:	FROM RECORD
Attorney Docket No. TRI-2.001.PCT.US	:	

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 18, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor.

The Office will not change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. If the applicants wish future correspondence to be mailed to a new law firm, a new power of attorney should be submitted in the application and should include the desired change of correspondence address. Accordingly, as the Request to Withdraw specified a law firm as the new correspondence address of record, the request cannot be granted at this time.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed August 3, 2011 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
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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P O BOX 2200
HILLSBORO OR 97123

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Hardy et al.	:	DECISION ON PETITION
Application No. 11/575,300	:	TO WITHDRAW
Filed: July 3, 2008	:	FROM RECORD
Attorney Docket No. TRI-2.001.PCT.US	:	

This is a decision on the second Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 8, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Bradley M. Ganz on behalf of all attorneys/agents of record who are associated with Customer Number 22874. All attorneys/agents associated with Customer Number 22874 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, Alan Hardy, at the address indicated below.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: ALAN HARDY
718 NW GREEFLEAF ROAD
PORTLAND, OR 97229

16 AUG 2010

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Alexandria, VA 22313-1450
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NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of	:	
Kup	:	
Application No.: 11/575,306	:	DECISION
PCT No.: PCT/IB2005/052894	:	
Int. Filing Date: 05 September 2005	:	ON
Priority Date: 14 September 2004	:	
Attorney Docket No.: NL04 0988US1	:	PETITION
For: Delay Control Circuit And Method	:	

The petition to revive under 37 CFR 1.137(b) filed on 20 May 2010 in the above-captioned application is hereby **DISMISSED, without prejudice**, as follows:

Petitioner states that "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." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has paid the petition fee.. No terminal disclaimer is required. The required reply is an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h). Inspection of the declaration accompanying the petition reveals that it identifies the instant international application number, but it is also captioned as being directed toward a different application, "11/573,306." As such, it is not sufficiently clear which application is being executed.

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mailing date of this Decision, extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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DEC 06 2010

PCT LEGAL ADMINISTRATION

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of	:	
Kup	:	
Application No.: 11/575,306	:	DECISION
PCT No.: PCT/IB2005/052894	:	
Int. Filing Date: 05 September 2005	:	ON
Priority Date: 14 September 2004	:	
Attorney Docket No.: NL04 0988US1	:	PETITION
For: Delay Control Circuit And Method	:	

The petition to revive under 37 CFR 1.137(b) filed on 05 October 2010 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner has stated that "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." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has paid the petition fee. No terminal disclaimer is required. The required reply is an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h). Inspection of the declaration accompanying the renewed petition reveals that it complies with 37 CFR 1.497(a) and (b). The surcharge is being charged to Deposit Account no. 50-4019, as authorized.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **05 October 2010**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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OCT 08 2010

OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ, 08830

In re Application of	:	
Fufang Zha et al	:	
Application No. 11/575,364	:	ON PETITION
Filed: May 15, 2007	:	
Attorney Docket No. 2004P87078WOUS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 6, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 7, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1797 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

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JAN 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Prouvost et al.	:	
Application No. 11/575,374	:	DECISION ON PETITION
Filed: May 22, 2008	:	
Attorney Docket No. 21.1248	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 12, 2010, as required by the Notice of Allowance and Fee(s) Due mailed July 9, 2010. Accordingly, the application became abandoned on October 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620 , and (3) a proper statement of unintentional delay. Accordingly, the failure to timely submit the issue and publication fees as required by the Notice of Allowance and Fee(s) Due is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 8,2011

In re Application of :

David Thomas

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11575437

Filed : 16-Mar-2007

Attorney Docket No : PAT 2482W-2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 8,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2886 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11575437
Filing Date	16-Mar-2007
First Named Inventor	David Thomas
Art Unit	2886
Examiner Name	ROY PUNNOOSE
Attorney Docket Number	PAT 2482W-2
Title	OPTICAL INSPECTION OF FLAT MEDIA USING DIRECT IMAGE TECHNOLOGY

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	/Jeffrey W. Wong/
Name	Jeffrey W. Wong
Registration Number	46414

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-20-11

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/575613 Patent No.: 7885003

CofC mailroom date: 04-13-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

A Green

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: _____

Clyton E. LaBalle 2862

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/575,658	03/21/2007	Heribert Baldus	2004P02221WOUS	1876

38107 7590 08/15/2011
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. Box 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
SORIANO, BOBBY GILES

ART UNIT	PAPER NUMBER
3769	

NOTIFICATION DATE	DELIVERY MODE
08/15/2011	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):

vera.kublanov@philips.com
debbie.henn@philips.com
marianne.fox@philips.com

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Alexandria, VA 22313-1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. Box 3001
BRIARCLIFF MANOR NY 10510

In re Application of:
BALDUS, HERIBERT et al
Serial No. 11/575,658
Filed: March 21, 2007
Docket: 2004P02221WOUS
Title: SYSTEM FOR AUTOMATIC CONTINUOUS AND RELIABLE PATIENT IDENTIFICATION FOR ASSOCIATION OF WIRELESS MEDICAL DEVICES TO PATIENTS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed August 11, 2011 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed June 13, 2011.

The petition is **granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the finality of the Office actions issued on June 13, 2011 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on June 13, 2011 will be designated as non-final Office action. Since the finality is being withdrawn, the amendment filed on August 13, 2011 in response to the Office action of June 13, 2011 has been treated as a 37 CFR § 1.111 amendment. The amendment of August 11, 2010 now has been entered for consideration. The examiner has been requested to issue a new Office action.

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

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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51707
WRB-IP LLP
1217 King Street
Alexandria, VA 22314

MAILED

NOV 09 2010

PCT LEGAL ADMINISTRATION

In re Application of
STEEN *et al*
Application No.: 11/575,665
PCT No.: PCT/SE2005/001319
Int. Filing Date: 09 September 2005
Priority Date: 28 September 2004
Attorney Docket No.: 000009-089
For: ENGINE DRIVEN VEHICLE WITH TRANSMISSION

DECISION

This decision is in response to the petition under 37 CFR 1.137(b) and the renewed petition under 37 CFR 1.182 filed 18 September 2010.

BACKGROUND

On 21 March 2007, applicants filed papers to enter the national stage of PCT/SE2005/001319 which was accompanied by, *inter alia*, an executed declaration.

On 28 May 2008, the DO/EO/US mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration previously submitted was unacceptable. The last name of an inventor (LINDAU) had been crossed out and replaced by a new name (BLANCKENFJELL). Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 30 May 2008, applicants resubmitted the declaration previously filed. No explanation of the change in name of the inventor was provided with this response.

On 22 July 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that applicants failed to provide an answer to the Form PCT/DO/EO/905 mailed 28 May 2008.

On 27 July 2008, applicants filed a response to the Form PCT/DO/EO/916 which included an unsigned email from the inventor whose name had changed. This response was treated as a petition under 37 CFR 1.182 to change the name of an inventor.

On 30 June 2009, a decision dismissing applicants' petition under 37 CFR 1.182 was mailed. The decision also noted that the declaration filed 21 March 2007 was not acceptable due to noninitialed, changes recorded on the declaration.

On 05 August 2010, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to timely respond to the Form PCT/DO/EO/905 within the time period set therein.

On 18 September 2010, applicants filed a petition for revival abandoned unintentionally under 37 CFR 1.137(b) which was accompanied by, *inter alia*, a renewed petition to change the name of an inventor under 37 CFR 1.182; a statement by the inventor whose name had changed; and an executed declaration.

DISCUSSION

In the instant response, applicants submitted a petition to revive under 37 CFR 1.137(b) along with a renewed petition to change the name of the inventor.

Petition to Revive Under 37 CFR 1.137(b)

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Items (2), (3) and (4) of 37 CFR 1.137(b)[1] are satisfied.

Regarding item (1) of 37 CFR 1.137(b), applicants submitted a renewed petition under 37 CFR 1.182 as the proper response.

Renewed Petition Under 37 CFR 1.182

Applicants request to change the name of one of the inventors from Magnus LINDAU to Magnus BLANCKENFJELL." Section 605.04(c) of the MPEP discusses this procedure and states, in part:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182 . . . The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

The petition fee has been previously paid. Applicants supplied a signed statement of the inventor stating that his proper name is Magnus BLANCKENFJELL

---

[1] The petition to revive fee has been paid. Applicants made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

and that the change occurred due to marriage. This is sufficient for a grantable petition under 37 CR 1.182.

The instant response is considered an appropriate reply. Item (1) of 37 CFR 1.137(b) is satisfied. All requirements of 37 CFR 1.137(b) are now complete.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of the inventor to Magnus BLANCKENFJELL is **GRANTED**.

The petition to revive under 37 CFR 1.137(b) is also **GRANTED**.

The declaration filed 18 September 2010 is in compliance with 37 CFR 1.137(b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 09 September 2005, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 18 September 2010.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

4/4/2012

Patent No. :8020153
Inventor(s) :Aoshima et al.
Issued :9/13/2011
Title :SOURCE CODE CHECKER, SOURCE CODE CHECKING METHOD, PROGRAM FOR CAUSING EXECUTION OF THE METHOD,AND STORAGE MEDIUM FOR STORING THE PROGRAM
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claim 11 col.16 line 16, is printed in accordance with the record and there is a $100 fee required to make the correction this is applicant mistake the SPE has denied the request. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.
Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(571) 272-8680

RATNER PRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

HR

UNITED STATES PATENT and TRADEMARK OFFICE

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FEB 17 2011

In re Application of	:	DECISION ON PCT LEGAL ADMINISTRATION
GRADON et al	:	
Application No.: 11/575,881	:	
PCT No.: PCT/PL2005/000060	:	
Int. Filing Date: 08 September 2005	:	PETITION UNDER
Priority Date: 23 September 2004	:	
Attorney's Docket No.: PB62025USW	:	
For: Powder Inhaler, System For Opening And	:	
Emptying Capsules	:	37 CFR 1.181

This decision is in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT" filed on 29 September 2008, which is being treated as a petition under 37 CFR 1.181 requesting that the 35 USC 371 (c)(1), (c)(2), and (c)(4) date is March 10, 2008 because this is the date that the executed declaration was filed and not as stated in the PCT/DO/EO/903 (14 August 2008).

BACKGROUND

On 23 March 2007, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application. However, no executed Declaration as set forth by 35 U.S.C. 371(c)(4) was filed on such time.

On 10 March 2008, applicants filed an executed declaration.

On 09 July 2008, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing... Arkadiusz MOSKAL is an added inventor his name is not published. The notification set a two (2) month time limit or 32 months from the priority date for the application, whichever is later to respond. Failure to properly respond would result in abandonment.

On 14 August 2008, applicants filed a response to the Notification and indicated that the PCT publication contained an error because joint inventor MOSKAL was not listed but it has since been corrected.

On 23 September 2008, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed stating that the Date of Receipt of 35 USC 371 (c)(1), (c)(2), and (c)(4) requirements and the Date of Completion of All 35 USC 371 Requirements is 14 August 2008.

On 29 September 2008, applicants filed a "Request for Corrected Filing Receipt," indicating that the proper 35 USC 371 (c)(1), (c)(2), and (c)(4) date is 10 March 2008.

DISCUSSION

A review of the file shows that the proper executed declaration for application 11/575,881 was filed on 10 March 2008, and that the IB re-published a corrected version of the first page of international publication that lists Arkadiusz MOSKAL as a joint inventor.

Therefore, the date of receipt of 35 USC 371(c)(1), (c)(2), and (c)(4) requirements and the date that all of the requirements under 35 U.S.C. 371 have been satisfied is 10 March 2008.

DECISION

The petition under 37 CFR 1.181 is **GRANTED.**

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 23 September 2008 **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a new PCT/EO/DO/ form 903 and filing receipt.

The 35 USC 371(c)(1), (c)(2), and (c)(4) date and the date of completion of all 35 USC 371 requirements of this application is **10 March 2008.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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Michael J. Frodsham
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

MAILED

MAR 30 2011

PCT LEGAL ADMINISTRATION

In re Application of:	:	
GUILLAUME ET AL	:	
US Application No.: 11/575,893	:	DECISION ON
PCT Application No.: PCT/US2007/063907	:	
Int. Filing Date: 13 March 2007	:	
Priority Date: 14 March 2006	:	REQUEST UNDER
Atty Docket No.: 15999.46.2	:	
For: SLIDING PANEL SYSTEM	:	
	:	37 CFR 1.497(d)
	:	

This is a decision on applicants' "PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. 1.48(a)" filed on 02 April 2010, which is being treated under 37 C.F.R. 1.497(d) to add inventors.

BACKGROUND

On 13 March 2007, applicants filed international application No. PCT/US2007/063907 and claiming priority date of 14 March 2006.

On 23 March 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee.

On 02 February 2010, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicants that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date" has not been provided. The declaration provided on 02 October 2007 listed two additional inventors not provided on the publication.

On 02 April 2010, applicants filed a declaration and the present petition to add two inventors to the application.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in 37 CFR 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR 3.73(b))

With respect to item (1), the appropriate statement has been provided.

With respect to item (2), the processing fee of $130 has been paid.

With respect to item (3), a written consent from the assignee has been properly provided.

CONCLUSION

For the reasons above, applicants' petition under 37 CFR 1.497(d) is **GRANTED.**

This application is being referred to the National Stage Processing (DO/EO/US) for further processing in accordance with this decision. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 02 October 2007.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Richard Cole
Senior PCT Legal Examiner
Office of PCT Legal Administration

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-64384	Patent Number: 7,667,505
Filing Date (or 371(b) or (f) Date): 09-23-2005	Issue Date: 02/23/2010
First Named Inventor: Per Torstein Roine	
Title: QUADRATURE DIVIDE-BY-THREE FREQUENCY DIVIDER AND LOW VOLTAGE MULLER C ELEMENT	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 09/07/2010

Applicant	: Per Torstein Roine	: DECISION ON REQUEST FOR
Patent Number	: 7667505	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/575,916	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Date: 01/20/12

Patent No. : 7888346 B2
Ser. No. : 11/575,945
Inventor(s) : **Albuquerque , et al.**
Issued : **February 15, 2011**
Title : **METHOD OF TREATING ORGANOPHOSPHOROUS POISONING**
Docket No. : **2225.004US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamont M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703)756-1580

Pedigo Law Firm, PLLC
6201 Fairview Road
Suite 200
Charlotte NC 28210

LMN

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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

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NOV 22 2011

OFFICE OF PETITIONS

In re Application of :
Mizrahi :
Application No. 11/576,077 : DECISION ON PETITION
Filed: March 13, 2008 :
Attorney Docket No. P-71633-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed January 25, 2011. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 26, 2011. A Notice of Abandonment was mailed on August 18, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $930.00, and (3) a statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

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.

This application is being referred to Technology Center AU 3711 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Attorney Advisor
Office of Petitions

Cc: Oren Reches
211 North Union Street, Suite 100
Alexandria, VA 22314

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/576,090	03/27/2007	Atsushi Tabata	305753US26PCT	6180

22850 7590 05/10/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BISHOP, ERIN D

ART UNIT	PAPER NUMBER
3655	

NOTIFICATION DATE	DELIVERY MODE
05/10/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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MAY - 9 2011

Oblon, Spivak, McClelland, Maier & Neustadt, LLP
1940 Duke Street
Alexandria, VA 22314

In re Application of Atsushi Tabata et al. Application No. 11/576,090 Filed: March 27, 2007 For: DRIVE APPARATUS FOR A VEHICLE	: : : :	DECISION ON THE PETITION REGARDING WITHDRAWAL OF DRAWING OBJECTION

Applicant's petition under 37 CFR 1.181, filed March 11, 2011, requests the supervisor to compel the examiner to consider the prior art documents (JP 2003-191759) and (JP 2003-191761) in the Information Disclosure Statement filed March 27, 2007.

The petition is **DISMISSED as Moot**.

A review of the file record indicates that the examiner issued a Non-final Office action on September 14, 2009 in which the applicant was notified that the two foreign non-english references referred to above, were not considered because there was no concise statement of relevance as is required by 37 CFR 1.98(a)(3). The applicant responded with a response on December 11, 2009 that argued that the two references in question had a concise explanation in the originally filed specification in paragraphs [0002] – [0011]. In the final rejection dated April 20, 2010, the examiner indicated that one of the references, JP 2003-191761, while being listed in the specification, fails to include an explanation of relevance. No mention was made of the '759 reference.

The applicant filed the instant petition repeating the argument that the two references in question, above, were filed with a specification that contained a showing of relevancy comprising the discussion of the references on pages 1 and 2. The applicant argues that this is sufficient to comply with 37 CFR 1.97-1.98 and that the examiner should be required to consider the references.

A review of the application reveals that the examiner has considered the above-noted foreign references as evidenced by a Miscellaneous Office action dated April 12, 2011. Therefore, the question that this petition was filed to resolve, is no longer at issue.

The request that the examiner be compelled to consider the prior art documents (JP 2003-191759) and (JP 2003-191761) in the Information Disclosure Statement filed March 27, 2007. is **DISMISSED as Moot** for the reasons given above.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Katherine Matecki

for David Talbott, Director
Patent Technology Center 3600
(571) 272-5150

snm/snm: 5/7/11

SM

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JAN 31 2011

PCT LEGAL ADMINISTRATION

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of GALL (Deceased) Application No.: 11/576,303 PCT No.: PCT/CA05/01488 Int. Filing Date: 29 September 2005 Priority Date: 30 September 2004 Attorney Docket no.: 32346-2066 For: REHYDRATION COMPOSITIONS COMPRISING EPIDERMAL GROWTH FACTOR	DECISION ON REQUEST UNDER 37 CFR 1.137(b) & 1.42

This is a decision on applicant's Petition under 37 CFR 1.137(b) and request under 37 CFR 1.42 along with an executed declaration filed in the United States Patent and Trademark Office (USPTO) on 30 November 2010.

BACKGROUND

On 29 March 2007, applicant filed a request for entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 27 May 2009, a Notification of Missing Requirements was mailed to applicant, indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 01 February 2010, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 30 November 2010, applicant filed an declaration executed by the legal representative of the deceased inventor and by the joint inventors along with the instant petition to revive and a request under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

The petition to revive under 37 CFR 1.137(b) in the above-captioned application is hereby **DISMISSED** as follows:

Applicant's statement that "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" meets the requirements of 37 CFR 1.137(b)(3). The required petition fee of $810 was also paid. However, the proper reply, an executed declaration, in compliance with 37 CFR 1.497(a) and (b), was not submitted.

To meet the requirements for compliance with 37 CFR 1.497(a) and (b), the declaration must state the relationship and the country of citizenship for all inventors, including the deceased inventor and his legal representative. In addition, the declaration must provide the residency and mailing address for all inventors, including the deceased inventor and the legal representative.

A review of the declaration submitted on 30 November 2010 reveals that it does not meet the requirements of 37 CFR 1.42 and 1/497(b). The declaration identifies LORETTA GALL as the sole heir and executrix of the deceased inventor DR. DONALD GRANT GALL but does not state the country of citizenship, residency and mailing address for both the deceased inventor and the legal representative. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

Furthermore, a review of the declaration reveals that the inventor Hardin's and Gall's addresses have been altered. The USPTO does not accept a declaration that has been altered.

Section 602.01 of the MPEP states the following:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

Thus, the requirements of 37 CFR 1.137(b) have not been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is dismissed as to the National stage in the United States of America. Applicant's request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

A new acceptable oath or declaration executed by the inventor Hardin and the legal representative of Dr. Gall is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

CONCLUSION

For the above reasons, the petition to revive under 37 CFR 1.137(b) in the above-captioned application is hereby **DISMISSED WITHOUT PREJUDICE**. The request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

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.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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JUN 16 2011

PCT LEGAL ADMINISTRATION

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312

In re Application of	:	
GALL (Deceased)	:	DECISION ON
Application No.: 11/576,303	:	
PCT No.: PCT/CA05/01488	:	REQUEST
Int. Filing Date: 29 September 2005	:	
Priority Date: 30 September 2004	:	UNDER 37 CFR 1.137(b) & 1.42
Attorney Docket no.: 32346-2066	:	
For: REHYDRATION COMPOSITIONS	:	
COMPRISING EPIDERMAL GROWTH FACTOR	:	

This is a decision on applicant's renewed Petition under 37 CFR 1.137(b) and request under 37 CFR 1.42 along with an executed declaration filed in the United States Patent and Trademark Office (USPTO) on 18 April 2011.

BACKGROUND

On 29 March 2007, applicant filed a request for entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 27 May 2009, a Notification of Missing Requirements was mailed to applicant, indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 01 February 2010, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 30 November 2010, applicant filed an declaration executed by the legal representative of the deceased inventor and by the joint inventors along with the instant petition to revive and a request under 37 CFR 1.42 along with an executed declaration. On 31 January 2011, a decision dismissing the petition was mailed to applicant.

DISCUSSION

The petition to revive under 37 CFR 1.137(b) in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "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" meets the requirements of 37 CFR 1.137(b)(3). The required petition fee of $810 was also paid.

To meet the requirements for compliance with 37 CFR 1.497(a) and (b), the declaration must state the relationship and the country of citizenship for all inventors, including the deceased inventor and his legal representative. In addition, the declaration must provide the residency and mailing address for all inventors, including the deceased inventor and the legal representative.

A newly executed oath or declaration executed by the inventor Hardin and the legal representative of Dr. Gall was provided. A review of the declaration submitted on 18 April 2011 reveals that it meets the requirements of 37 CFR 1.42 and 1.497(b). The declaration identifies LORETTA GALL as the sole heir and executrix of the deceased inventor DR. DONALD GRANT GALL and states the country of citizenship, residency and mailing address for both the deceased inventor and the legal representative. Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

Thus, the requirements of 37 CFR 1.137(b) have now been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

CONCLUSION

For the above reasons, the petition to revive under 37 CFR 1.137(b) in the above-captioned application is hereby **GRANTED**.

The request for status under 37 CFR 1.42 is **GRANTED.**

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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SEP 13 2010

OFFICE OF PETITIONS

BACHMAN & LAPOINTE, P.C. (UTC)
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510-2802

In re Application of	:	
Grabon, Michel K. et al.	:	
Application No. 11/576,316	:	DECISION ON PETITION
Filed: March 29, 2007	:	TO WITHDRAW
Attorney Docket No. **057.10822-US-AA(03-733-2)**	:	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 09, 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 Ross Christie. Ross Christie has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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JAN 03 2011

OFFICE OF PETITIONS

Hanley, Flight & Zimmerman, LLC
150 S. Wacker Dr. Suite 2100
Chicago, IL 60606

In re Application of	:	
Nielsen et al.	:	DECISION ON APPLICATION
Application No. 11/576,328	:	FOR PATENT TERM ADJUSTMENT
Filed: March 29, 2007	:	
Attorney Docket No. 20004/312US	:	

This is a decision responding to the petition under 37 C.F.R. § 1.705(b) filed July 7, 2010. Applicants request the initial determination of patent term adjustment be corrected from twenty-seven (27) days to two hundred fifty (250) days.

The application for patent term adjustment is **dismissed**.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on April 7, 2010, advising Applicants of a patent term adjustment to date of 27 days. In response, Applicants timely filed this application for patent term adjustment with the issue fee on July 7, 2010.

The Notice of Allowance indicates the initial patent term adjustment is 27 days, which is 29 days of delay under 37 C.F.R. § 1.703(a)(2) reduced by 2 days of delay under 37 C.F.R. § 1.704(b).

Applicants assert the correct patent term adjustment is 250 days, which is 252 days of delay under 37 C.F.R. § 1.703(a)(1) reduced by 2 days of delay under 37 C.F.R. § 1.704(b).

Delay Under 37 C.F.R. § 1.703(a)(1)

Applicants argue the patent term adjustment should include a 252-day increase in patent term adjustment for delay under 37 C.F.R. § 1.703(a)(1).

Pursuant to 37 C.F.R. § 1.703(a)(1), the period of Office delay includes, with emphasis added:

> The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either

> an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first

Applicants assert the application fulfilled the requirements of 35 U.S.C. § 371 on March 29, 2007.

The Office agrees entry of 252-increase in patent term adjustment would be warranted under 37 C.F.R. § 1.703(a)(1) if the application fulfilled the requirements of 35 U.S.C. § 371 on March 29, 2007. However, the Office does not agree the application fulfilled the requirements of 35 U.S.C. § 371 on March 29, 2007.

Applicants recognize, and the Office agrees, the date the application fulfilled the requirements of 35 U.S.C. § 371 is March 29, 2007, <u>if, and only if</u>, the application papers filed March 29, 2007, included a request for early processing under 35 U.S.C. § 371(f). Therefore, the Office must determine whether or not the application papers filed March 29, 2007, included a request for early processing under 35 U.S.C. § 371(f).

Applicants assert the application papers included a request for early processing under 35 U.S.C. § 371(f) because a preliminary amendment filed with the application papers on March 29, 2007, stated,

> [A]pplicants respectfully note that the United States International Searching Authority, in its International Search Report and Written Opinion, established that all pending claims meet the criteria of PCT Article 33(1)-(4). Therefore, it is respectfully submitted that all pending claims are in condition for allowance and advanced out-of-turn examination pursuant to M.P.E.P. § 1893.03 is earnestly solicited.

Applicants argue,

> Because MPEP 1893.03 derives its authority from 35 U.S.C. 371(f), applicants' earnest solicitation for advanced out-of-turn examination pursuant to M.P.E.P. § 1893.03 is an express request for early processing under 35 U.S.C. § 371(f).

M.P.E.P. § 1893.03 states national stage applications are forwarded to Technology Centers "for examination in turn based on the 35 U.S.C. 371(c) date of the application." M.P.E.P. § 1893.03 also quotes 37 C.F.R. § 1.496(a), which states, "[U]nless an express request for early processing has been filed under 35 U.S.C. 371(f), no action may be taken prior to one month after entry into the national stage."

Pursuant to M.P.E.P. § 1893.03, if the cover letter filed March 29, 2007, had included an express request for early processing, the application would have been forwarded to a Technology Center "for **examination in turn** based on the 35 U.S.C. 371(c) date of the application." However, Applicants did not request in-turn examination based on the 35 U.S.C. § 371(c) date of the application. Instead, Applicants requested, with emphasis added, "advanced **out-of-turn examination** pursuant to M.P.E.P. § 1893.03."

A proper request for early processing under 35 U.S.C. § 371(f) must be an "express request." Therefore, the Office must determine if Applicants have proven the language in the preliminary amendment constitutes an *express* request for early processing under 35 U.S.C. § 371(f).

Black's Law Dictionary defines "express" as "clearly and unmistakably communicated; directly stated." BLACK'S LAW DICTIONARY 190 (9th ed. 2009). Webster's Third International Dictionary defines express as "directly and distinctly stated or expressed rather than implied or left to inference." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 803 (1993). Merriam-Webster's Collegiate Dictionary defines "express" as "directly, firmly, and explicitly stated." MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 645 (1998).

Applicants have not proven the request for "advanced out-of-turn examination pursuant to M.P.E.P. § 1893.03" was a direct, clear, unmistakable, and explicit request for early processing under 35 U.S.C. § 371(f). In other words, Applicants have not proven Applicants expressly requested early processing under 35 U.S.C. § 371(f).

In view of the previous discussion, the record fails to prove the Office should have entered a 252-increase in patent term adjustment for delay under 37 C.F.R. § 1.703(a)(1).

Delay Under 37 C.F.R. § 1.703(a)(2)

Applicants recognize the existence of a 29-day period of delay under 37 C.F.R. § 1.703(a)(2). However, Applicants do not include the 29-day period as part of the patent term adjustment based on an assertion the 29 days overlap with the period of delay under 37 C.F.R. § 1.703(b) ("B Delay"). The Office does not calculate the period of B Delay, or determine if the period of B Delay will overlap with a period of delay under 37 C.F.R. § 1.703(a), until after a patent issues. Therefore, the period of B Delay is irrelevant when determining the patent term adjustment determination mailed with the Notice of Allowance. In other words, the Office acted properly when the Office included a 29-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(2) when calculating the initial patent term adjustment mailed with the Notice of Allowance.

Conclusion

The facts in this case do not warrant a 252-increase in patent term adjustment for delay under 37 C.F.R. § 1.703(a)(1).

The correct patent term adjustment as of the date the Office issued the Notice of Allowance is 27 days, which is 29 days of delay under 37 C.F.R. § 1.703(a)(2) reduced by 2 days of delay under 37 C.F.R. § 1.704(b).

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time

of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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LUNDEEN & LUNDEEN, PLLC
2710 Louisiana
HOUSTON TX 77006

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Vasant L. Bhirud	:	
Application No. 11/576,410	:	DECISION ON PETITION
Filed: March 30, 2007	:	TO WITHDRAW
Attorney Docket No. ETH-01/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 November 9, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Daniel N. Lundeen on behalf of all attorneys/agents associated with customer number 23508. All attorneys/agents associated with customer number 23508 have been withdrawn.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Vasant L. Bhirud
21439 Park Mill Lane
Katy, TX 77450

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/576,410	03/30/2007	Vasant L. Bhirud	ETH-01/US

CONFIRMATION NO. 1565

23508
LUNDEEN & LUNDEEN, PLLC
2710 Louisiana
HOUSTON, TX 77006

POWER OF ATTORNEY NOTICE

OC000000044825397

Date Mailed: 12/06/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2010.

- 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.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:04092012

DATE : April 09, 2012

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7936392

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:

/SINH TRAN/
Supervisory Patent Examiner.Art Unit 2622

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

MAILED
NOV 24 2010
PCT LEGAL ADMINISTRATION

In re Application of GUIEZE et al	:	
U.S. Application No.: 11/576,478	:	
PCT Application No.: PCT/EP2005/010580	:	DECISION
Int. Filing Date: 28 September 2005	:	
Priority Date Claimed: 07 October 2004	:	
Attorney Docket No.: 21.1279	:	
For: A SAMPLING APPARATUS	:	

This is in response to applicant's third renewed petition under 37 CFR 1.47(a) filed on 20 October 2010.

BACKGROUND

On 28 September 2005, applicant filed international application PCT/EP2005/010580, which claimed priority of an earlier European Patent Office application filed 07 October 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 13 April 2006. The thirty-month period for paying the basic national fee in the United States expired on 07 April 2007.

On 02 April 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 January 2009, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 April 2009, applicant filed a petition under 37 CFR 1.47(a).

On 17 June 2009, this Office mailed a decision dismissing the 21 April 2009 petition.

On 02 July 2009, applicant filed a renewed petition under 37 CFR 1.47(a).

On 28 August 2009, this Office mailed a decision dismissing the 02 July 2009 petition.

On 29 March 2010, applicant filed a second renewed petition under 37 CFR 1.47(a).

On 21 May 2010, this Office mailed a decision dismissing the 29 March 2010 petition.

On 20 October 2010, applicant filed the instant third renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Kostas Kotzakoulakis refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to inventor Kotzakoulakis for signature and that Kotzakoulakis received such papers (see letter dated 06 October 2010 and DHL tracking report). Furthermore, the petition sufficiently illustrates that Kotzakoulakis refuses to sign. In particular, Kotzakoulakis' failure to

return an executed declaration in response to the correspondence delivered to him is deemed a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Kotzakoulakis refuses to join in the application.

CONCLUSION

For the reasons above, the third renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 28 September 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 April 2009.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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COMMISSIONER FOR PATENTS
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Kostas Kotzakoulakis
Profiti ilia 110
73133 Chania
GREECE

MAILED
NOV 24 2010
PCT LEGAL ADMINISTRATION

In re Application of GUIEZE et al
U.S. Application No.: 11/576,478
PCT Application No.: PCT/EP2005/010580
Int. Filing Date: 28 September 2005
Priority Date Claimed: 07 October 2004
For: A SAMPLING APPARATUS

Dear Kostas Kotzakoulakis:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478
Attorney Docket No.: 21.1279

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PABST PATENT GROUP LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Boyan et al.	:	DECISION ON PETITION
Application No. 11/576,542	:	TO WITHDRAW
Filed: July 19, 2007	:	FROM RECORD
Attorney Docket No. GTRC 3292	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 27, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Charles Vorndran on behalf of all attorneys of record who are associated with Customer Number 23579.

All attorneys/agents associated with the Customer Number 23579 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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Avery Dennison Corporation
Amanda Wittine
8080 Norton Parkway
22-D
Mentor OH 44060

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Blackwell et al.	:	
Application No. 11/576564	:	ON PETITION
Filing or 371(c) Date: 04/03/2007	:	
Attorney Docket Number:	:	
AVERP3809WOUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2011, and supplemented May 17, 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 September 16, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is December 18, 2010[1].

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee (and the submission required by 37 CFR 1.114, filed May 17, 2010); (2) the petition fee; and (3) a proper statement of unintentional delay.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available.

[1] Applicants filed an Amendment in response to the Office action on December 17, 2010; however, the Amendment failed to place the application in condition for allowance. As such, the date of abandonment is December 18, 2010.

Applicants should file a request for a refund and include a copy of this Decision with the request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 1787 for processing of the RCE and submission/Supplemental Amendment, and for appropriate action on the amendment by the Examiner in the normal course of business.

/DLW/

Derek L. Woods
Attorney
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	11576607
Filing Date	04-Jan-2008
First Named Inventor	Robin Fairhurst
Art Unit	1622
Examiner Name	MARK BERCH
Attorney Docket Number	093286-0178
Title	PURINE DERIVATIVES FOR USE AS ADENOSINE A-2A RECEPTOR AGONISTS

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable	
◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)	
○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).	
RCE request,submission, and fee.	
☒ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on 2011.08.22	
☐ 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	/Paul D. Strain/
Name	Paul D. Strain
Registration Number	47369

UNITED STATES 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 22,2011

In re Application of :

Robin Fairhurst

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11576607

Filed : 04-Jan-2008

Attorney Docket No : 093286-0178

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 22,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 1622 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PCT LEGAL ADMINISTRATION

SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

In re Application of MORRISON et al. Application No.: 11/576,623 PCT No.: PCT/GB05/03830 Int. Filing Date: 04 October 2005 Priority Date: 04 October 2004 Attorney Docket No.: 09011.0001U1 For: METHOD, APPARATUS AND SYSTEM FOR MONITORING COMPUTING APPARATUS	DECISION ON RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE

This is a decision on applicant's "Response to Notification of Defective Response" filed in the United States Patent and Trademark Office on 31 July 2008. The response will be treated under 37 CFR 1.497(d). This is also responsive to the submission on 23 August 2007.

BACKGROUND

On 04 April 2007, applicant filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee prior to the expiration of the thirty month period.

On 28 June 2007, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 23 August 2007, applicant responded to the Notification with an executed declaration. The declaration was executed by inventors JOHN MORRISON and CHRISTOPHER POVEY was accompanied by statements of the inventor to be deleted and the inventors to be added. Authorization to charge applicant's deposit account for any fees required was submitted.

On 17 July 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant indicating that the declaration was defective because the inventors identified on the declaration did not match the inventors listed on the published international application.

On 31 July 2008, applicant filed a response to the Form 916, treated as a petition under 37 CFR 1.497(d).

DISCUSSION

A review of the application file reveals that the given name of the applicant as listed on the published international application was SCOTT JAMES WATSON. The declaration, filed on 23 August 2007, is signed by JOHN MORRISON and CHRISTOPHER POVEY. This submission will be treated under 37 CFR 1.497(d) and was accompanied by statements of the inventor to be deleted and the inventors to be added.

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d)

names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

Applicant has satisfied Item (1) with the statement of SCOTT JAMES WATSON to be deleted as an inventor and the statements of JOHN MORRISON and CHRISTOPHER POVEY to be added as inventors that the error in inventorship occurred without deceptive intent on their part.

With respect to Item (2), the petition fee of $130 will be charged to applicant's deposit account per his authorization.

With regard to Item (3), it appears that there is no assignee for this application. If this is incorrect, applicant must immediately notify the Office and provide the written consent of the assignee to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the deletion of SCOTT JAMES WATSON and addition of JOHN MORRISON and CHRISTOPHER POVEY as inventors in this application. (See 37 CFR 3.73(b)). Where there is no assignee, Item (3) above is not required.

In his 31 July 2008 petition, applicant also requests a refund of overcharge of the surcharge for filing the oath or declaration after the thirty month period. A review of the finance records for this application indicate that a refund of $65 (code 2051), which was an overcharge, was refunded on 30 July 2008.

CONCLUSION

The petition under 37 CFR 1.497(d) in the above-captioned application is hereby **GRANTED.** Applicant's deposit account will be charged the petition fee of $130.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571)272-3286

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-22-12

TO SPE OF : ART UNIT 1722

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/576670 Patent No.: 8062542

CofC mailroom date: 01-19-12

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

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 [signature] **Art Unit** 1722