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: VANB3002/BEU	Patent Number: 7659717
Filing Date (or 371(b) or (f) Date): 2007-05-08	Issue Date: 2010-02-09
First Named Inventor: Luc Van Bockstal	
Title: SENSOR FOR MEASURING MAGNETIC FLUX	

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

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

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

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

Signature /ThomasJMoore/	Date 2010-08-05
Name (Print/Typed) Thomas J. Moore	Registration Number 28974

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

☐ *Total of _____ forms are submitted.

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

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

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

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 08/13/2010

Applicant	: Luc Van Bockstal	: DECISION ON REQUEST FOR
Patent Number	: 7659717	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/667,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **41** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/667,317	11/05/2007	Nobuyuki Tanaka	1691-0226PUS1	9569

2292 7590 04/10/2012
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
HUHN, RICHARD A

ART UNIT	PAPER NUMBER
1764	

NOTIFICATION DATE	DELIVERY MODE
04/10/2012	ELECTRONIC

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

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

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

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Mailed: APR 10 2012

In re application of Tanaka et al. Serial No. 11/667,317 Filed: November 5, 2007 For: **POLYMERIZATION CURABLE COMPOSITION**	: : : : :	DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on February 17, 2012 to withdraw the Finality of the Office Action mailed on January 20, 2012.

Applicants assert that the Examiner in the Final Office Action newly cites Carlsson to rebut Applicants' argument of record. Applicants further state that it is inappropriate to utilize a new reference not provided by Applicants in reply to Applicants' arguments and then make the rejection final.

In the Final Rejection the Examiner uses the Heller reference in two rejections of record that were previously made. One was for a non-statutory obviousness –type double patenting and the other a 37 USC 103 rejection. The Examiner does not refer to the newly cited Carsson reference in the statement of the art rejections but states later in the office action that in light of Applicants' newly submitted Declaration and accompanying remarks, the Carlsson reference was made of record. The Examiner further states that in light of Carlsson, it is evident that a person of ordinary skill would have expected the hindered amine compounds disclosed by Heller to function as stabilizers against sources of oxidation other than light-initiated oxidation, such as thermal oxidation. The Declaration submitted by Applicants did not mention the Heller reference.

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 incorporation of the Carlsson reference and accompanying remarks by the Examiner in view of the Heller reference introduces new grounds of rejection that was not necessitated by Applicants' amendment or submission of an information disclosure statement.

UNITED STATES PATENT AND TRADEMARK OFFICE

DECISION

The petition is **GRANTED**.

The Finality of the Office Action is withdrawn. The period for response continues to run from the mail date of the rejection (January 20, 2012).

/Gladys JP Corcoran/
Director, Technology Center 1700

Gladys Corcoran, Director
Technology Center 1700
Chemical and Materials Engineering

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

MAILED
MAY 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Walter M. Gebhart, et al.	:	
Application No.: 11/667,399	:	ON PETITION
Filed: May 9, 2007	:	
Attorney Docket No.: P473.12-0003	:	

This is a decision on the petition, filed May 10, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2855 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
209 MADISON STREET, SUITE 500
ALEXANDRIA, VA 22314

MAILED
MAR 21 2011
OFFICE OF PETITIONS

In re Application of
Tomoaki ABE, et *al.*
Application No. 11/667,564
Filed: June 13, 2007
Attorney Docket No. **8030-1016**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3783 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111203

DATE : December 03, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7977500

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/DANIEL SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/667,709	12/21/2007	Yizhar Weiss	39369	4051

7590 05/02/2011
MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

EXAMINER
CHERRY, EUNCHA P

ART UNIT	PAPER NUMBER
2872	

MAIL DATE	DELIVERY MODE
05/02/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 2, 2011

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

In re Application of	:	
Yizhar Weiss et al.	:	**DECISION ON PETITION**
Application No. 11667709	:	
Filed: 12/21/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 39369	:	***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) May 14, 2007.

The petition is **GRANTED**.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 6,2011

In re Application of :

John Pretlove

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11667710

Filed : 04-Dec-2007

Attorney Docket No : 43315-245353

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 6,2011 , 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 2442 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	11667710
Filing Date	04-Dec-2007
First Named Inventor	John Pretlove
Art Unit	2442
Examiner Name	JASON RECEK
Attorney Docket Number	43315-245353
Title	METHOD FOR DISPLAYING DATA IN AN INDUSTRIAL CONTROL SYSTEM

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

○ A joint inventor; all of whom are signing this e-petition

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Eric J. Franklin/
Name	Eric J Franklin
Registration Number	37134

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Patent No. : 7,932,462 B2
Ser. No. : 11/667,755
Inventor(s) : Van Riesen et al.
Issued : Apr. 26, 2011
Title : ARRANGEMENT COMPRISING A SOLAR CELL AND AN INTEGRATED BYPASS DIODE
Docket No. : 6956/PCT
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 : 9/13/10 **Paper No.:** ____

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/667782 Patent No.: 7255024 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: _____

/SCS/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/13/10 **Paper No.:** ____

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/667782 Patent No.: 7255024 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: _____

Georgia Y. Epps 2878

UNITED STATES 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

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,678,783	: DECISION ON REQUEST
Issue Date: March 16, 2010	: FOR RECONSIDERATION OF
Application No. 11/667,913	: PATENT TERM ADJUSTMENT
Filed: May 16, 2007	: AND
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
064507-5014-US01	: CERTIFICATE OF CORRECTION

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R, §1.705(d)", filed April 30, 2010. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 71 to 112 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 one hundred twelve **(112)** days.

On March 16, 2010 the application matured into U.S. Patent No. 7,678,783 with a revised PTA thereon of 71 days. On April 30, 2010 patentee timely submitted a request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seventy-one (71) days. Patentee disputes the reduction of seventy (70) days attributed to patentee for the submission of a paper filed January 6, 2010 after the Notice of Allowance was mailed.

This application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of seventy-one (71) days. The reduction of seventy (70) days pursuant to 37 C.F.R. § 1.704(c)(10) is at issue.

The reduction of 70 days has been found to be incorrect. A review of the application file, as stated by Patentee, supports a conclusion that the reduction should be from the filing of the Information Disclosure Statement on January 6, 2010 to the mailing of the response on February 3, 2010, not the issue date of the Patent on March 16, 2010. The period of delay pursuant to 37 C.F.R. § 1.704(c)(10) is therefore 29 days.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred twelve **(112)** days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred twelve (112) 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 : 7,678,783 B2

DATED : March 16, 2010

INVENTOR(S) : Phillipe G. Nantermet

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 (71) days

Delete the phrase "by 71 days" and insert – by 112 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/667,923	07/17/2008	Young-Dac Gong	930086-2057	4335

20999 7590 07/19/2011
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER
WILLIS, DOUGLAS M

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
07/19/2011	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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of	:	
Gong et al.	:	
Serial No.: 11/667,923	:	Decision on Petition
Filed: July 17, 2008	:	
Attorney Docket No.: **930086-2057**	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed June 6, 2011 to withdraw the finality of the Office action of December 6, 2010.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

Applicants filed a Request for Continued Examination (RCE) on March 22, 2010.

The examiner mailed a final Office action on December 6, 2010 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 21-31 were pending. The examiner rejected claims 21-16 and 29 and withdrew claims 27, 28, 30 and 31 from consideration. Claims 21-26 and 29 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement.

On February 7, 2011, applicants submitted an amendment after final including claim amendments and arguments traversing the rejections to the claims.

On February 15, 2011, the examiner mailed to applicants an advisory action indicating that the after final amendment would be entered but indicated new issues were raised.

On March 24, 2011, applicants submitted a second amendment after final including claim amendments and arguments traversing the rejections to the claims.

On May 4, 2011, the examiner mailed to applicants an advisory action indicating that the after final amendment would be entered but indicated new issues were raised.

On April 6, 2011, applicants submitted a Notice of Appeal.

On June 6, 2011, applicants filed an Appeal Brief.

On June 6, 2011, applicants filed the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

Applicant's arguments have been accorded careful consideration but they are not persuasive for the following reasons. The petition to withdraw finality was untimely. Applicants should note that 37 CFR 1.181(f) indicates that any petition not filed within two months of the mailing date of the action from which relief is requested may be dismissed as untimely, that action being the final rejection of March 8, 2011 not any telephonic interview. If the applicant wants consideration after the two months they should file a petition, and corresponding petition fee for such, under 37 CFR 1.183 and ask for a suspension of the Rule 181 and ask that consideration be made later than the 2 months.

Accordingly, the petition filed under 37 CFR 1. 181 is **DISMISSED** as untimely.

However, applicants should note that had the petition been timely, said petition would have been denied since the final Office action of December 6, 2010 was proper as no new issues or grounds of rejection were raised by the examiner. As regards the amendments after final which have been indicated as being entered, such amended claims will be addressed by the examiner in response to the Appeal Brief filed by applicants on June 6, 2011.

DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

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

Jacqueline Stone
Director, 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.
11/667,923	07/17/2008	Young-Dae Gong	41890-306913	4335

26694 7590 11/14/2011
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

EXAMINER
WILLIS, DOUGLAS M

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
11/14/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NOV 14 2011

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of	:	
Gong, et al.	:	
Serial No.: 11/667,923	:	Decision on Petition
Filed: July 17, 2008	:	
Attorney Docket No.: **930086-2057**	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed June 6, 2011 to withdraw the finality of the Office action of December 6, 2010.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

Applicants filed a Request for Continued Examination (RCE) on March 22, 2010.

The examiner mailed a final Office action on December 6, 2010 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 21-31 were pending. The examiner rejected claims 21-16 and 29 and withdrew claims 27, 28, 30 and 31 from consideration. Claims 21-26 and 29 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement.

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On April 6, 2011, applicants submitted a Notice of Appeal.

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On June 6, 2011, applicants filed the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

Applicant's arguments have been accorded careful consideration but they are not persuasive for the following reasons. The petition to withdraw finality was untimely. Applicants should note that 37 CFR 1.181(f) indicates that any petition not filed within two months of the mailing date of the action from which relief is requested may be dismissed as untimely, that action being the final rejection of March 8, 2011 not any telephonic interview. If the applicant wants consideration after the two months they should file a petition, and corresponding petition fee for such, under 37 CFR 1.183 and ask for a suspension of the Rule 181 and ask that consideration be made later than the 2 months.

Accordingly, the petition filed under 37 CFR 1. 181 is **DISMISSED** as untimely.

However, applicants should note that had the petition been timely, said petition would have been denied since the final Office action of December 6, 2010 was proper as no new issues or grounds of rejection were raised by the examiner. As regards the amendments after final which have been indicated as being entered, such amended claims will be addressed by the examiner in response to the Appeal Brief filed by applicants on June 6, 2011.

DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

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

Jacqueline Stone
Director, Technology Center 1600

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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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MAILED

FEB 28 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,832,711	: DECISION ON REQUEST
Miyoshi, et al.	: FOR
Issue Date: November 16, 2010	: RECONSIDERATION OF
Application No. 11/667,940	: PATENT TERM ADJUSTMENT
Filed: November 9, 2007	: and
Atty Docket No. **04632.0085**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 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 three hundred and fifty (350) 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 and fifty (350) 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 three hundred and fifty (350) 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 : 7,832,711 B2

DATED : Nov. 16, 2010

INVENTOR(S) : Miyoshi 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 (348) days

Delete the phrase "by 348 days" and insert – by 350 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/667,989	03/24/2008	Thomas F. Berkey	F-TP-00026	5726

26799 7590 08/24/2010
Tyco International LTD
Ip Legal Department
One Town Center Road
BOCA RATON, FL 33486

EXAMINER
ADAMS, BRET W

ART UNIT	PAPER NUMBER
2862	

MAIL DATE	DELIVERY MODE
08/24/2010	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

Tyco International LTD
Ip Legal Department
One Town Center Road
BOCA RATON, FL 33486

In re Application of:	:	
BERKEY *et al.*	:	*SUA SPONTE*
Serial No.: 11/667,989	:	DECISION WITHDRAWING HOLDING OF
Filed: May 16, 2007	:	ABANDONMENT
Attorney Docket No.: **F-TP-00026**	:	

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely respond to the Office action mailed on January 15, 2010. A Notice of Abandonment was mailed on July 22, 2010.

A review of the written record indicates that a proper response to the Office action was previously filed on July 15, 2010, with a three (3) month extension of time and a certificate of mailing dated July 15, 2010, but not processed in the application file prior to the mailing of the Notice of Abandonment. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES 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 MOTORS LLC
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT MI 48265-3000

APR 19 2011

In re Application of		
KIM, DO-SUNG et al.	:	
Application No.: 11/668,154	:	DECISION ON
Filing or 371(c) Date: January 29, 2007	:	PETITION
Attorney Docket No.: GP-308782-NAPD-LCH	:	

This is a decision in response to the "Notice to Withdraw Holding of Abandonment," filed March 23, 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 November 26, 2010. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 11, 2011.

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 February 3, 2011, 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

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 Motors, LLC
Legal Staff
Mail Code 482-C23-B21
P. O. Box 300
Detroit, MI 48265-3000

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Application of
Hua He, et. al.
Application No. 11/668,154
Filed: January 29, 2007
Attorney Docket No. GP-308782-NAPD-LCH

DECISION ON PETITION

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

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Christopher W. Quinn 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 application became abandoned for failure to file a timely reply to the Notice of Allowance and Fee(s) Due (Notice) mailed on November 26, 2010. A Notice of Abandonment was mailed March 11, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of one (1) sheet of replacement drawings containing Figures 1-3; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since the correspondence address of record differs from the address given in the present petition, a courtesy copy of this decision is being mailed to the address given in the petition. Thereafter, all future communications from the Office will be directed solely to the address of record unless otherwise instructed.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Christopher W. Quinn
39555 Orchard Hill Place
Suite 520
Novi, MI 48375

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
OCT 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Briston Peterson et al.	:	
Application No. 11/668,223	:	DECISION ON PETITION
Filed: January 29, 2007	:	
Attorney Docket No. 457108	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 28, 2011. Accordingly, the date of abandonment of this application is September 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $870 and the publication fee of $300, (2) the petition fee of $930, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,821,375 :
Issue Date: October 26, 2010 :
Application No. 11/668,229 : NOTICE
Filed: January 29, 2007 :
Attorney Docket No. 01640545AA :

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

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of
Dan C. Porter et al. :
Application No. 11/668,245 :
Filed: January 29, 2007 :
Attorney Docket No: POR012 P302A :

ON PETITION

This is a decision on the PETITION UNDER 37 C.F.R. § 1.182 and the ALTERNATIVE PETITION UNDER 37 C.F.R. § 1.137(b) TO REVIVE AN ABANDONED APPLICATION DUE TO UNINTENTIONAL DELAY, filed September 8, 2010.

The petition under 37 CFR 1.182 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

A non-Final Office Action was mailed January 29, 2008 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned April 30, 2008. Accordingly, a Notice of Abandonment was mailed August 19, 2008.

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)).

Petitioners request "that the date of abandonment of U.S. Patent Application No. 11/668,245 (hereinafter "the present '245 application") be changed from April 30, 2008, to July 30, 2008, for the sole purpose of establishing co-pendency with pending U.S. Divisional Application No. 12/166,993 (hereinafter "the '993 divisional application")." Petitioners argue that "on July 2, 2008, the undersigned attorney filed the '993 divisional application (Appendix A). A Petition and Fee for Extension of Time (35 U.S.C. § 41(a)(8)) (Appendix A) for a three-month extension of time to respond to the Office Action dated January 29, 2009, in the present '245 application was filed with the '993 divisional application."

A review of the file in application no.12/166,993 reveals that the three month extension of time referenced in the petition to revive filed July 2, 2008 was incorrectly filed with the divisional application and not the instant application. Thus, the instant application had no co-pendency with the continuation application.

Pursuant to MPEP 201.06(c):

> If an extension of time is necessary to establish continuity between the prior application and the continuing application filed under 37 CFR 1.53(b), the petition for an extension of time must be filed as a separate paper directed to the prior nonprovisional application. Under 37 CFR 1.136(a)(3), an authorization to charge all required fees, fees under 37 CFR 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time for its timely submission. A continuing application filed under 37 CFR 1.53(b) is a new application which is assigned a new application number and filing date and is maintained separately from the file of the prior application. The filing of a continuing application is not a paper directed or placed in the file of the prior application and is not a "reply" to the last Office action in the prior application. Thus, a petition for an extension of time and the fee set forth in 37 CFR 1.17 are required to be filed as a separate paper in the prior application. Any petition for an extension of time directed to the prior application must be accompanied by its own certificate of mailing under 37 CFR 1.8 (if mailed by first class mail) or under 37 CFR 1.10 (if mailed by Express Mail), if the benefits of those rules are desired.

In view thereof, the petition under 37 CFR 1.182 is not grantable. With respect to the petition under 37 CFR 1.137(b), continuity is now established by this decision reviving the application and since this application is being revived for purposes of continuity only, this application is again abandoned in favor of divisional application no.12/166,993 filed July 2, 2008, pursuant to the provisions of 37 CFR 1.53(b).

Fees in the amount of $400 for the petition under 37 CFR 1.182 and $810 for the petition under 37 CFR 1.137(b) have been charged to deposit account no. 16-2463.

This matter is being referred to Technology Center 3721 for processing of the divisional application filed July 2, 2008.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 11 2011

OFFICE OF PETITIONS

JELLETT LAW, PS
MATTHEW JELLETT, ESQ.
910 HARRIS AVE
SUITE A205
BELLINGHAM WA 98225

In re Application of	:	
WU, Mouxiong	:	
Application No. 11/668,362	:	DECISION ON PETITION
Filed: January 29, 2007	:	TO WITHDRAW
Attorney Docket No. P416175PAT	:	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 12, 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.

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

The request cannot be approved because Paul Wu is not listed in our database.

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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED
SEP 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Kishore KUMAR, et al	:	
Application No. 11/668,399	:	DECISION ON PETITION
Filed: January 29, 2007	:	
Docket No. TVTLP001A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 3686 for appropriate action by the Examiner in the normal course of business.

/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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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of :
Kevin Foley :
Application No. 11/668,454 : DECISION ON PETITION
Filed: January 29, 2007 :
Attorney Docket No. **06-1124** :

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

The petition is **GRANTED**.

A Notice of Panel Decision from Pre-Appeal Brief Review (Notice) was mailed on April 28, 2010. Applicant was given one (1) month from the mailing date of the Notice to file an Appeal Brief with extensions of time available under 37 CFR 1.136. The application became abandoned as a result of petitioner's failure to timely file an Appeal Brief and fee required by 37 CFR 41.20(b)(2). As 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 May 29, 2010. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of July 22, 2009 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2350 extension of time fee submitted with the petition on January 21, 2011

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

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

This application is being referred to Technology Center AU 3693 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT 1654

11/668,485
(7919577)

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

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

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

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriated box.

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

Comments:

Charles Tsang, SPE, Art Unit 1654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/11/11

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 11668592 Patent No.: 7489084

CofC mailroom date: 07/27/09

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: _____

Douglas K. Owens

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111118

DATE : November 18, 2011

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction on Patent No.: 8,012,256

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:

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SEP 24 2010

OFFICE OF PETITIONS

WEST & ASSOCIATES, A PC
1255 Treat Blvd.
3rd Floor
WALNUT CREEK CA 94597

In re Patent No. 7,674,195	:	
Issue Date: March 9, 2010	:	
Application No. 11/668,797	:	ON PETITION
Filed: January 30, 2007	:	
Attorney Docket No. ROMCE-01001	:	

This is a decision on the petition filed June 23, 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 request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a required petition fee of $130. Petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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WEST & ASSOCIATES, A PC
1255 Treat Blvd.
3rd Floor
WALNUT CREEK CA 94597

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OCT 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,674,195	:	
Issue Date: March 9, 2010	:	
Application No. 11/668,797	:	ON PETITION
Filed: January 30, 2007	:	
Attorney Docket No. ROMCE-01001	:	

This is a decision on the renewed petition filed September 23, 2011, a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JAN 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Aaron	:	
Application No.: 11/668,803	:	ON PETITION
Filed: January 30, 2007	:	
Attorney Docket No.: 20009.0305US01/060369	:	

This is a decision on the petition, filed January 6, 2012, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 19, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2612 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

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

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Mo :
Application No. 11/668,943 : DECISION ON APPLICATION FOR
Filed: January 30, 2007 : PATENT TERM ADJUSTMENT
Patent No. 7,596,363 :
Issued: September 29, 2009 :
Atty Docket No. : 17473US03 :
Title: METHOD AND SYSTEM FOR :
MEASURING RECEIVER MIXER IQ :
MISMATCH :

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*," which is being treated as a petition pursuant to 37 C.F.R. 1.705(d), filed June 18, 2010. Patentee requests that the patent term adjustment be corrected from one hundred and thirty-five (135) days to one hundred and thirty-six (136) days.

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

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Application No. 11/668,943 matured into U.S. patent No. 7,596,363 on September 29, 2009, with a patent term adjustment of 135 days. On March 22, 2010, Patentee filed a Request for Recalculation of Patent Term Adjustment in view of Wyeth. On April 21, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION," indicating that the patent term adjustment had been determined to be 44 days. On May 18, 2010, the Office mailed a "NOTICE CONCERNING IMPROPER CALCULATION OF PATENT TERM ADJUSTMENT BASED UPON USPTO

IMPROPERLY MEASURING REDUCTION PERIOD UNDER 37 CFR 1.704(c)(10)," vacating the April 21, 2010 mailing, and indicating that the patent term adjustment had been determined to be 135 days.

The record supports a conclusion that this patent is not subject to a terminal disclaimer (a terminal disclaimer was filed on October 23, 2008, and was disapproved on November 21, 2008).

With this petition, Patentee contends that one period of reduction was improperly calculated.

37 CFR § 1.704(c)(10) sets forth that the submission of an amendment under § 1.312 after a notice of allowance has been given or mailed will result in a reduction, with said reduction constituting the lesser of four months or the "number of days, if any, *beginning on the date the amendment under § 1.312 or other paper was filed* (emphasis added) and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper."

A notice of allowance was mailed on January 14, 2009, a Rule 1.312 amendment was filed on April 13, 2009, and a response to the Rule 1.312 amendment was mailed 28 days later on May 11, 2009. However, since 37 CFR § 1.704(c)(10) specifies that the reduction period include the date the Rule 1.312 amendment was filed, this constitutes a delay of 29 days, and not 28 as Patentee has argued. <u>It follows that the 29-day reduction was properly assessed</u>.

In view thereof, the patent term adjustment of 135 days as set forth in the mailing of May 18, 2010 is correct.

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

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

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300 - please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

As the patent issued with a patent term adjustment of 135 days, a certificate of correction is not required.

Telephone inquiries regarding this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5]

Anthony Knight
Director
Office of Petitions

---

4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON DC 20007

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of :
Ryder, et al. :
Application No. 11/668,953 : ON PETITION
Filed: January 30, 2007 :
Attorney Docket No. 4883-3 :

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

The petition is GRANTED.

The application became abandoned February 3, 2011 for failure to timely submit a proper reply to the final Office action mailed November 2, 2010. Notice of Abandonment was mailed May 26, 2011.

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 3677 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110624

DATE : June 24, 2011

TO SPE OF : ART UNIT 1783

SUBJECT : Request for Certificate of Correction on Patent No.: 7867592

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:

/DAVID SAMPLE/
Supervisory Patent Examiner.Art Unit 1783

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

MAILED
MAR 20 2012
OFFICE OF PETITIONS

In re Patent No. 7,867,592 :
Issue Date: January 11, 2011 :
Application No. 11/669,022 : ON PETITION
Filed: January 30, 2007 :
Attorney Docket No. **10076-707.200** :

This is a decision on the petition filed March 5, 2012, 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**.

Petitioner states that the correct assignee's name is "Eksigent Technologies, LLC" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FLIESLER MEYER LLP
650 CALIFORNIA STREET, 14TH FLOOR
SAN FRANCISCO, CA 94108

MAILED
MAR 16 2011
OFFICE OF PETITIONS

In re Application of
Afshin PARTOVI, et *al.*
Application No. 11/669,113
Filed: January 30, 2007
Attorney Docket No. **AFPA-01007US0**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 10, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marilyn L. Amick
Roche Diagnostics Corporation
9115 Hague Road, Bldg. D
Indianapolis IN 46250-0457

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Gerald F. Sigler et al.	:	
Application No. 11/669,200	:	DECISION ON PETITION
Filed: January 31, 2007	:	
Attorney Docket No. 22681 US4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2009, 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 8, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 6, 2009. Accordingly, the date of abandonment of this application is June 9, 2009. A Notice of Abandonment was mailed on June 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,190 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The revocation of power of attorney filed December 15, 2009 is not acceptable. The Statement under 37 CFR 3.73(b) authorizes Marilyn Amick to act on behalf of the assignee. The power of attorney is signed by D. Michael Young. The names and signatures of the 3.73(b) Statement and the power of attorney should be one in the same.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Roche Diagnostics Operations, Inc.
9115 Hague Road
Indianapolis, IN 46250-0457

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of
Thomas Philip Speier, et al.
Application No. 11/669,245
Filed: January 31, 2007
Attorney Docket No. 061787

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 August 8, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 24, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2188 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Patent of Brian L. Davis	:	DECISION ON REQUEST
Patent No. 7,767,432	:	FOR RECONSIDERATION OF
Issue Date: August 3, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/669,268	:	AND NOTICE OF INTENT TO
Filing Date: January 31, 2007	:	ISSUE CERTIFICATE OF
Attorney Docket No. LD0283DIV2	:	CORRECTION

This is a decision on the petition filed August 10, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment on the patent be corrected to indicate the term of the patent is extended or adjusted by five hundred ninety-four (594) days.

The petition is **dismissed**.

Although the petition is dismissed, the Office has determined the patent term adjustment determination set forth on the patent is incorrect and the Office will *sua sponte* issue a certificate of correction setting forth a patent term adjustment of five hundred eleven (511) days. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing an 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 file any paper objecting to the issuance of the certificate of correction.**

No portion of this decision should be construed as a waiver of the requirement, set forth in 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.

Delay Under 37 C.F.R. § 1.702(a) ("A Delay")

The period of A Delay is 410 days and is not in dispute.

Delay Under 37 C.F.R. § 1.702(b) ("B Delay")

Patentee asserts the period of B Delay is 184 days, which is the number of days beginning on February 1, 2010, the day after the date three years after the filing date, and ending on August 3, 2010, the date the patent issued.

Pursuant to 37 C.F.R. § 1.702(b)(4), the period of B Delay does not include "[a]ny time consumed by review by the Board of Patent Appeals and Interferences or a Federal court." Specifically, as stated in 37 C.F.R. § 1.703(b)(4), the period of B Delay does not include,

> The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

A Notice of Appeal was filed February 4, 2010. The Office subsequently issued a Notice of Allowance on March 24, 2010. The number of days beginning February 4, 2010, and ending on March 24, 2010, is 49 days.

The period of B Delay is 135 days after the 49-day period of time consumed by appellate review is excluded.

Overlap Between A Delay and B Delay

The periods of A Delay and B Delay do not overlap.

Delay Under 37 C.F.R. § 1.704 ("Applicant Delay")

A review of the record indicates the Office should have entered a 34-day reduction in patent term adjustment pursuant to 37 C.F.R. 1.704(c)(10).

37 C.F.R. 1.704(c)(10) states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... 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 Office issued a Notice of Allowance on March 24, 2010. Patentees' filed a request under 37 C.F.R. 1.48 on March 31, 2010. The Office issued a response to the request on May 3, 2010.

The number of days beginning March 31, 2010, the date the request under 37 C.F.R. § 1.48 was filed, and ending May 3, 2010, the date the Office issued a response to the request, is 34 days. Therefore, a 34-day reduction is warranted under 37 C.F.R. 1.704(c)(10).

In view of the prior discussion, the period of Applicant Delay is 34 days.

Conclusion

The Office will issue a certificate of correction setting forth a patent term adjustment of 511 days, which is the sum of 410 days of A Delay and 135 days of B Delay reduced by 34 days of Applicant Delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **five hundred eleven (511)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,767,432 B2
APPLICATION NO.	:	11/669,268
DATED	:	August 3, 2010
INVENTOR(S)	:	Brian L. Davis

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 546 days.

Delete the phrase "by 546 days" and insert -- by 511 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/669,339	01/31/2007	Robert P. Morris	I458/US	5275

49277 7590 09/13/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
TIV, BACKHEAN

ART UNIT	PAPER NUMBER
2451	

MAIL DATE	DELIVERY MODE
09/13/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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13 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2

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

In re Application of: MORRIS
Appl. No.: 11/669339
Filed: January 31, 2007
For: **METHOD AND SYSTEM FOR ASSOCIATING A TAG WITH A STATUS VALUE OF A PRINCIPAL ASSOCIATED WITH A PRESENCE CLIENT**

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 25, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on August 25, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Chau Nguyen whose telephone number is (571) 272-3126.

/Chau Nguyen/

Chau Nguyen
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

OK to Enter /O.H./ 04/06/2012

Patent 7,843,856 **PATENT**

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,843,856	Docket No:	1370.328US1
Issue Date:	November 30, 2010	Patentee:	Somarajan C. Ramakrishnan et al.
Customer No.:	21186	Confirmation No.:	5729
Title	DETERMINATION OF AVAILABLE SERVICE CAPACITY IN DYNAMIC NETWORK ACCESS DOMAINS		

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. A copy of the text of the Certificate in the suggested form is enclosed.

Authorization to charge Deposit Account No. 19-0743 in the amount of $100.00 to cover the Certificate of Correction Fee.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Respectfully Submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date : 01.26.2011

By: /Garth Vivier/
Garth Vivier
Reg. No: 57,313
GV:rk

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is filed using the USPTO's electronic filling system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 27 day of January 2011

Kevin Austad
Name

/Kevin Austad/
Signature

OK to enter /O.H./ 04/06/2012

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 7,843,856 Page (1) of 1

DATED : November 30, 2010

INVENTOR(S) : Somarajan C. Ramakrishnan et al.

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

In column 16, lines 29-30, in Claim 15, delete "UNIcir<((MIN(ANc, Arc, ALc))*(Eot);" and insert - - UNIcir<(MIN(ANc, Arc, ALc))*(Eof); - -, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

Atty Docket No: 1370.328US1

PATENT NO. _____7,843,856_____

No. of additional copies

⇨ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120406

DATE : April 09, 2012

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction on Patent No.: 7,843,856

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:

It is OK to enter

/O.H/

/KWANG B YAO/
Supervisory Patent Examiner, Art Unit 2473

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Shaiw-Rong Scott Liu	:	
Application No. 11/669,791	:	DECISION ON PETITION
Filed: January 31, 2007	:	TO WITHDRAW
Attorney Docket No. **14791-0009001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 31, 2010.

The request is **APPROVED**.

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

The request was signed by William E. Hunter on behalf of all attorneys of record who are associated with the above-identified application.

All attorneys/agents associated with the above-identified application have been withdrawn.

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

All future correspondence will be directed to the assignee Worldwide Strategy Holdings Limited at the address list listed in the request.

There is an outstanding Office action mailed August 25, 2010, that requires a reply from the applicant.

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Worldwide Strategy Holdings Limited
570 Nathan Road, Suite #138
Kowloon, Hong Kong

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/669,791	01/31/2007	Shaiw-Rong Scott Liu	14791-0009001

CONFIRMATION NO. 5989

POWER OF ATTORNEY NOTICE

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000043716501

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2010.

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

/jlburke/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/669,862	01/31/2007	Robert C. Fox	FOXF/0007	6111

49567 7590 02/10/2011
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056

EXAMINER
WILLIAMS, THOMAS J

ART UNIT	PAPER NUMBER
3657	

MAIL DATE	DELIVERY MODE
02/10/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FEB 1 0 2011

PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd., Suite 1500
Houston TX 77056

In re Application of FOX, ROBERT C.
Appl. No.:11/669,862
Filed: January 1, 2007
For: TRAVEL CONTROL FOR A GAS SPRING AND GAS SPRING HAVING VERY SHORT TRAVEL MODES

RESPONSE TO PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed July 19, 2007, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the Showa Advertisement published in the June 1994 issue of Mountain Bike magazine, filed June 1, 2007, be expunged from the record.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

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

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed

from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

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

Any questions regarding this decision should be directed to Robert Siconolfi at (571) 272-7124.

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

rs: 2/7/11

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Junli Liu, et al.	:	DECISION ON PETITION
Application No. 11/669,895	:	TO WITHDRAW
Filed: January 31, 2007	:	FROM RECORD
Attorney Docket No. **2832-005-03**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed January 7, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tue Nguyen
496 Olive Avenue
Fremont, CA 94539

Patent No.	: 7,968,248 B2
Appl. No.	: 11/669,895
Inventor(s)	: Junli Liu, et al.
Issued	: June 28, 2011
Title	: **LIQUID-LIQUID FUEL CELL SYSTEMS HAVING FLOW-THROUGH ANODES AND FLOW-BY CATHODES**
Docket No.	: 690089.416

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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3404 E. HARMONY ROAD
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FORT COLLINS CO 80528

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Tophan, et al.	:	
Application No. 11/669,908	:	DECISION
Filed/Deposited: 31 January, 2007	:	
Attorney Docket No. 200600647-2	:	

This is a decision on the petition filed on 7 September, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (oath/declaration, surcharge) mailed on 23 February, 2007, with reply due absent extension of time on or before 23 April, 2007.

The application went abandoned by operation of law after midnight 23 April, 2007.

The Office mailed a Notice of Abandonment on 5 November, 2007.

On 29 January, 2010, Petitioner Dan V. Hu (Reg. No. 40,025) filed, *inter alia*, a petition (with fee authorization (now charged as authorized to Deposit Account 08-2025)) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with a reply in the form of (oath/declaration, surcharge), and made a statement of unintentional delay. However, Petitioner failed to provide any discussion (supported by applicable documentation) of the extended period of delay following the date of abandonment as to the nature of the thirty-three- (33-) month delay since the date of abandonment and twenty-six- (26-) month delay since the Notice thereof. In fact there was no showing that Petitioner is in a position to make the statement of unintentional delay and/or has made an appropriate independent inquiry with findings that support such a statement. The petition was dismissed on 7 July, 2010.

On 7 September, 2010, Petitioner filed, *inter alia*, re-advanced his petition pursuant to 37 C.F.R. §1.137(b), pointed to the earlier reply, made his showing and submitted an additional showing to address the facts of the unintentional delay and re-averred the statement of unintentional delay.

The record (including the petitions filed on 29 January, 2010, and 7 July, 2010) does not necessitate a finding that the delay between midnight 23 April, 2007 (the date of abandonment), and 7 September, 2010 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Dan C. Hu (Reg. No. 40,025) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU (TC/AU) 2186 for further processing in due course.

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

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[3] 35 U.S.C. §133 provides:

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

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

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

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

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

[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.

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NORTH OAKS MN 55127

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JUL 05 2011

OFFICE OF PETITIONS

In re Application of
Clark, et al.
Application No. 11/669,935
Filed/Deposited: 31 January, 2007
Attorney Docket No. D33-009-04-US

DECISION ON PETITION

This is a decision on the petition filed on 20 June, 2007, pursuant to 37 C.F.R. §1.47.

NOTE:

The instant petition was not received in the Office of Petitions until this writing.

Petitioner is cautioned that most materials are addressed by the Office of Petitions within 60 to 90 days of filing and failure to receive a response in such a period of time may be reason for Petitioner to submit a Status Inquiry to the Office.

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 record reflects as follows:

The application was deposited on 31 January, 2007, without, *inter alia*, a fully executed oath/declaration

On 20 February, 2007, the Office mailed a Notice of Missing Parts requiring, *inter alia*, a fully executed oath/declaration.

On 20 June, 2007, Petitioner Shawn B. Dempster (Reg. No. 34,321) filed, *inter alia*, a request and fee for extension of time, a petition pursuant to the regulations at 37 C.F.R. §1.47, with an oath/declaration executed by co-inventors Messrs. Bump and Jirak for themselves and on behalf of non-signing co-inventor Melvin e. Clark (Mr. Clark), with a statement by Petitioner and by Venu Nyar (Mr. Nyar) "a contractor to Digital River *** assignee ***" attesting to the attachment of an correspondence (25 May, 2007) that evidences postal transmission of the entire application (description, claims, abstract, drawings) to Mr. Clark at his valid/current/reasonably believed to be last known address for the non-signing inventor and received by the nonsigning inventor and that thereafter he actually and/or constructively refused to sign/join in the application.

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).)

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

---

[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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MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Application of
Clark, et al.
Application No. 11/669,935
Filed/Deposited: 31 January, 2007
Attorney Docket No. D33-009-04-US

COMMUNICATION

Dear Melvin E. Clark:

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:
NORTH OAKS PATENT AGENCY
45 ISLAND ROAD
NORTH OAKS MN 55127

[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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OFFICE OF PETITIONS

In re Application of	:	
Harjani, et al.	:	
Application No. 11/669,938	:	DECISION
Filed/Deposited: 31 January, 2007	:	
Attorney Docket No. 600.666US1	:	

This is a decision on the petition filed on 10 August, 2010, 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:

This petition was received in the Office of Petitions for determination at this writing.

The record is silent as to any action by Petitioner (e.g., Status Inquiry) as to this matter since the submission of the instant petition.

The petition under 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 and timeliness requirements for relief pursuant to 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 3 December, 2009, with reply due absent extension of time on or before 3 March, 2010.

The application went abandoned by operation of law after midnight 3 March, 2010.

The Office mailed the Notice of Abandonment on 19 June, 2010.

On 10 August, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred timely reply, with, *inter alia*, a copy of the averred timely reply submitted on 15 June, 2010, (*per* a date-stamped receipt card) over a 3 June, 2010, certificate of mail, with averred true copies of the receipt card and the reply, and Petitioner's statement (personal knowledge) as the individual who signed the certificate(s) of mail.

As noted above, the record is silent as to any action (e.g., Status Inquiry) by Petitioner thereafter

Petitioners always are directed with regard to a petition pursuant to the regulations at 37 C.F.R. §1.181 to the guidance in the Commentary at MPEP §711.03(c)(I).

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely reply:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard

receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

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

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[1] *See*: MPEP §711.03(c) (I)(B).

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

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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 and when it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 10 June, 2010, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 2611 for further processing in due course.

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

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

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

---

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
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FUTUREWEI TECHNOLOGIES, INC.
5340 LEGACY DRIVE
SUITE 175
PLANO TX 75024

MAILED
NOV 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,680,960	:	
Issue Date: March 16, 2010	:	
Application No. 11/670,012	:	DECISION ON PETITION
Filed: February 1, 2007	:	
Attorney Docket No. 21370/0212233-US0	:	

This is a decision on the petition under 37 CFR 1.182, filed November 10, 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) 272-3206. 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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)

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Ford Global
c/o Shook, Hardy & Bacon L.L.P.
Intellectual Property Department
2555 Grand Blvd.
Kansas City MO 64108

MAILED
JUN 27 2011
OFFICE OF PETITIONS

In re Application of :
Ian HALL et al. : ON PETITION
Application No. 11/670,014 :
Filed: February 1, 2007 :
Atty. Docket No.: FMCO.145496 :

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

The petition is **GRANTED**.

The application was held abandoned for failure to properly reply in a timely manner to the non-final Office action mailed April 7, 2009, which set a period for reply of three (3) months. No reply was received, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on July 8, 2009. A Notice of Abandonment was mailed November 19, 2009.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the non-final Office action mailed April 7, 2009, (2) the petition fee of $810, and (3) a statement of unintentional delay. The reply to the non-final Office action is accepted as having been unintentionally abandoned.

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 a 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 unintentional, petitioner must notify the Office.

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 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 3616 for further action on the filed Response.

for

David Bucci
Petitions Examiner
Office of Petitions

cc: Thomas T. Moga
1155 F Street, N.W.
Ste. 200
Washington, D.C. 20004-1305

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
John F. Novak

Application No. 11670041

Filed: February 1,2007

Attorney Docket No. 203719.00017

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 21-JAN-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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JUN 16 2011
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JONES, WALKER, WAECHTER, POITEVENT, CARRERE
& DENEGRE, L.L.P.
5TH FLOOR, FOUR UNITED PLAZA
8555 UNITED PLAZA BOULEVARD
BATON ROUGE LA 70809

In re Patent No. 7,730,086	:	
Issue Date: June 1, 2010	:	
Application No. 11/670,113	:	DECISION ON PETITION
Filed: February 1, 2007	:	
Attorney Docket No. 16675/095137-02	:	

This is a decision on the Request For Certificate Of Correction, filed October 14, 2010, which is being treated as a Petition Under 37 CFR §3.81(b) to add --The Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Baton Rouge, LA (US)-- as the correct assignee name to the Title Page of the Patent via a Certificate of Correction.

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

Petitioner requests that the present Petition was submitted to add the correct --The Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Baton Rouge, LA (US)-- on the previously submitted PTOL-85B and such error was inadvertently provided partially incorrect.

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

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

U.S. Patent and Trademark Office assignment records disclose that a corrective assignment *The Board Of Supervisors Of Louisiana State University And Agricultural And Mechanical College.* was submitted for recordation on October 11, 2010. Therefore, the correct recorded assignment was **after the date of issuance of this patent.** Accordingly, since the corrective assignment

was not submitted for recordation until after issuance of this patent, issuance of a certification of correction would not be proper.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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BMS/ZYMOGENETICS
HENRY HADAD
ROUTE 206 & PROVINCE LINE ROAD
PRINCETON, NJ 08543-4000

MAILED
JUL 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,642,345 :
Issue Date: January 5, 2010 :
Application No. 11/670,147 : ON PETITION
Filed: February 1, 2007 :
Patentee: Scott R. Presnell, et al. :
Attorney Docket No. 99-93D4

This is a decision on the petition filed May 26, 2011, requesting under 37 CFR 1.182 that the terminal disclaimer filed August 20, 2009, be removed and the enclosed substitute new Terminal Disclaimer be placed in the file of the above-identified patent.

The petition is **granted** to the extent indicated.

On August 20, 2009, petitioner filed on an acceptable Terminal Disclaimer which due to clerical error incorrectly listed an unrelated application, Patent No. 7,941,809, filed September 27, 2006, and entitled "SYSTEMS AND METHODS FOR MANAGING EVENTS". Petitioner seeks to "correct" the flawed terminal disclaimer by replacing it with the concurrently filed substitute Terminal Disclaimer which references the correct patent number.

Petitioner argues that MPEP 1490 VII.B. states that "Where a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection, and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed, a petition under 37 CFR 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number, and replace it with a corrected terminal disclaimer having the correct patent number. In this instance, the inadvertency is clear from the record. If the transposing error resulted in an earlier patent term expiration date than provided by the corrected terminal, a statement must be included in the corrected terminal disclaimer to retain that earlier expiration date."

The USPTO will not grant a request to withdraw or amend a recorded terminal disclaimer in an issued patent on the grounds that the rules of practice and 35 USC 253 do not include a mechanism for withdrawal or amendment of such a terminal

disclaimer. See MPEP 1490; Bayer AG v. Carlsbad Technology Inc., 298 F.3d 1377, 64 USPQ2d 1045, 1048-49 (CAFC 2002). As such, the original terminal disclaimer unfortunately cannot be "removed" as petitioner requests. Nevertheless, as the newly filed, corrective Terminal Disclaimer is regular in form and is accompanied by the requisite fee, it is accepted, placed in this file, and thus has been recorded against the instant patent, as petitioner requests.

It is noted that the address given in the present petition differs from the correspondence address of record. A courtesy copy of this decision is being mailed to the address given in the petition; thereafter, all future communications from the Office will be mailed solely to the address of record unless otherwise instructed.

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

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

cc: Maureen Gibbons
Bristol-Myers Squibb Company
P.O. Box 4000
Princeton, NJ 08543-4000

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LEVENFELD PEARLSTEIN, LLC
INTELLECTUAL PROPERTY DEPARTMENT
2 NORTH LASALLE
SUITE 1300
CHICAGO IL 60602

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,438,428	:	
Application No. 11/670,220	:	
Filed: February 1, 2007	:	ON PETITION
Issued: October 21, 2008	:	
Attorney Docket No. 35394-65496	:	

This is a decision on the renewed petition filed August 26, 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 and the petition under 37 CFR 1.182, filed August 26, 2010, requesting issuance of a duplicate Letters Patent for the above-identified application.

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

The petition under 37 CFR 1.182 is **GRANTED**.

This matter will first be referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction. Thereafter, the patent application will be referred to the Office of Data Management, which will issue a duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at (703) 756-1555 or Kimberly Terrell at (703) 756-1568. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Ollie Person, P/ODM, RSQ 9D30-A (FAX 571-270-9764)
Kimberly Terrell, P/ODM, RSQ 9D33 (FAX 571-270-9958)

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

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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER, NY 14604-2404

MAILED

MAY 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Anthony Simone, et. al.	:	
Application No. 11/670,222	:	DECISION ON PETITION
Filed: February 1, 2007	:	TO WITHDRAW FROM
Attorney Docket No. 3017061 US02	:	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 April 26, 2011.

The request is **NOT APPROVED**.

Thomas R. FitzGerald and the attorneys/agents associated with Customer Number 44331 did not make certifications (2) delivered to the client or duly authorized representative of the client 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. The failure to do so may subject the practitioner to discipline[1].

Practitioner should note USPTO Form Number PTO/SB/83 requires practitioner to "check each box below that is factually correct" and Warns that "If a box is left unchecked, the request will likely not be approved". (*See USPTO Form No. PTO/SB/83*).

There is an outstanding Office action mailed on February 28, 2011, that requires a response from the applicant[2].

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Anthony Simone
17 Thomas Maria Circle
Webster, NY 14580

---

[1] False certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

[2] Once this application becomes abandoned, no consideration on any renewed request under 37 CFR 1.36 or 10.40 will be given unless a petition under 37 CFR 1.137 has been filed.

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MAY 27 2011

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2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER, NY 14604-2404

In re Application of	:	
Anthony Simone, et. al.	:	
Application No. 11/670,222	:	DECISION ON PETITION
Filed: February 1, 2007	:	TO WITHDRAW FROM
Attorney Docket No. 3017061 US02	:	RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed May 17, 2011.

The request is **APPROVED**.

The request was signed by Thomas R. FitzGerald on behalf of himself and all attorneys/agents associated with Customer Number 44331. Therefore, Thomas R. FitzGerald and all the attorneys/agents associated with Customer Number 44331 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an Office action mailed February 28, 2011, that requires a reply from the applicant.

All future communications from the Office will be directed to 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: Anthony Simone
17 Thomas Maria Circle
Webster, NY 14580

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/670,222	02/01/2007	Anthony Simone	3017061 US02

CONFIRMATION NO. 6707

POWER OF ATTORNEY NOTICE

44331
HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER, NY 14604-2404

OC000000047870851

Date Mailed: 05/25/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/17/2011.

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

/amsmith/

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

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

MAILED
JAN 17 2012
OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Henrik C. Hansen	: FOR PATENT TERM ADJUSTMENT
Application No. 11/670,238	: AND NOTICE OF INTENT
Filed: February 1, 2007	: TO ISSUE
Patent No. 8,053,440	: CERTIFICATE OF CORRECTION
Issued: November 8, 2011	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT -POST GRANT", filed January 5, 2012. Patentee requests that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand two hundred sixty-seven (1267) days to one thousand two hundred eighty-eight (1288) days.

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

On August 3, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the instant application. The Notice stated that the patent term adjustment (PTA) to date was seven hundred sixty-nine (769) days. On September 21, 2011, Applicant filed a candor letter, asserting that the Office's assessment of the PTA was thought to be too many days. On November 8, 2011, the application issued into Patent No. 8,053,440 with a PTA of one thousand two hundred sixty-seven (1267) days.

A review of the file reveals that Applicant was assessed delay of forty-nine (49) days for filing the candor letter on September 21, 2011. Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Here, it is concluded that the submission of the candor letter is analogous to the submission of an application for patent term adjustment. Accordingly, zero (0) days should have been assessed for this filing.

Moreover, Patentee is correct that he should have been assessed additional days of applicant delay under 37 CFR 1.704(b). The Office mailed a Notice to File Missing Parts on March 12, 2007. Applicant did not file a reply until July 10, 2007. Accordingly, pursuant to 37 CFR 1.704(b), twenty-eight (28) days of Applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment is one thousand two hundred sixty-seven (1267) days (769 days of "A" delay and 645 days of "B" delay, reduced by 28 days of Applicant delay and 98 days of overlap between "A" and "B" delay).

Receipt of the $200 fee is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **one thousand two hundred eighty-eight (1288) days.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 8,053,440 B2

DATED : **November 8, 2011**

INVENTOR(S) : Henrik C. Hansen

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 1267 days.

Delete the phrase "by 1267 days" and insert – by 1288 days--

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ROSS J. OCHLER
CEPHALON, INC.
41 MOORES ROAD
PO BOX 4011
FRAZER PA 19355

MAILED
AUG 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Anthony G. Doyle et al	:	
Application No. 11/670,261	:	DECISION GRANTING PETITION
Filed: February 1, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CAP553	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 20, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 8, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1644 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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CEPHALON, Inc.
41 MOORES ROAD
PO BOX 4011
FRAZER PA 19355

MAILED

AUG 31 2010

OFFICE OF PETITIONS

In re Application	:
Doyle, et al.	:
Application No. 11/670,261	: PATENT TERM ADJUSTMENT
Filed: February 1, 2007	:
Dkt. No.: CAP553	:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed July 8, 2010. This matter is being properly treated pursuant to 37 CFR 1.705(b), the request having been filed prior to issuance of a patent.

On June 14, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 286 days.

However, prior to a decision on the letter regarding patent term adjustment being rendered, on August 20, 2010, applicants filed a petition to withdraw from issue along with a request for continued examination (RCE). By decision mailed August 23, 2010, the withdrawal from issue was granted. Prosecution was reopened.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicants must submit a timely application for patent term adjustment in response to any new Notice of Allowance (or may submit another candor letter). An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice.

Technology Center AU 1644 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

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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MORRISON & GOERSTER LLP
755 PAE MILL ROAD
PALO ALTO, CA 94304-1018

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of
Anthony G. Doyle et al.
Application No. 11/670,261
Filed: February 1, 2007
Attorney Docket No. CAP553

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed August 6, 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 25226 has been revoked by the applicants of the patent application on August 20, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Ross J. Oehler
CEPHALON, Inc.
41 MOORES ROAD
PO BOX 4011
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Ross J. Oehler
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41 MOORES ROAD
PO BOX 4011
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OCT 13 2010

OFFICE OF PETITIONS

In re Application
Doyle, et al.
Application No. 11/670,261
Filing or 371(c) Date: February 1, 2007
Dkt. No.: CAP553

: PATENT TERM ADJUSTMENT

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 27, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 390 days, not 286 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.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	Bruce A. Cole	Confirmation No.	6799
Serial No.:	11/670,272		
Filed:	February 01, 2007	Customer No.:	72689
Examiner:	Jung H. Park		
Group Art Unit:	2465		
Docket No.:	1014-025US02/JNP-0176.01		
Title:	SCALABLE ROUTE RESOLUTION		

CERTIFICATE UNDER 37 CFR 1.8 I hereby certify that this correspondence is being transmitted via the United States Patent and Trademark Office electronic filing system on August 30, 2010.

By:____/Rebecca S. Bartels/_____
Name: Rebecca S. Bartels

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. A copy of the text of the Certificate in the suggested form is enclosed.

☒ As some of the errors listed are due to Applicant's mistake, please charge Deposit Account No. 50-1778 in the amount of $100 to cover the Certificate fee.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims, and re-examination is not required.

Date: _____August 30, 2010____

By: _____/Kent J. Sieffert/_____
Name: Kent J. Sieffert, Reg. No.: 41,312

SHUMAKER & SIEFFERT, P.A.
1625 Radio Drive, Suite 300
Woodbury, Minnesota 55125
Telephone: 651.286.8341
Facsimile: 651.735.1102

DETACH HERE BEFORE MAILING TWO COPIES OF THE CERTIFICATE TO THE PATENT OFFICE

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,746,790 **PAGE** 1 **of** 1

DATED : June 29, 2010

INVENTOR(S) : Cole et al.

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

Column 10, line 23 (Claim 15), “elements” should read -- entries --

MAILING ADDRESS OF SENDER:
Shumaker & Sieffert, P.A.
Attn: Kent J. Sieffert
1625 Radio Dr., Suite 300
Woodbury, MN 55125

PATENT NO. 7,746,790

Docket No. 1014-025US02/JNP-0176.01

No. of add'l copies @ 50¢ per page ⇒ 0

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101005

DATE : October 11, 2010

TO SPE OF : ART UNIT 2465

SUBJECT : Request for Certificate of Correction on Patent No.: 7746790

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

The requested corrections shown in the COCIN document is approved because no new matter has been introduced and the scope of meaning of the claims has not been changed.

SPE: Jay Patel **Art Unit** 2465

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PITTS AND BRITTIAN P C
P O BOX 51295
KNOXVILLE TN 37950-1295

MAILED
MAR 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,656,291 :
Issue Date: February 2, 2010 :
Application No. 11/670,278 : DECISION ON PETITION
Filed: February 1, 2007 :
Attorney Docket No. 32263.00 :

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R. §3.81(b), filed March 11, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to correct the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

Petitioner requests that the present Petition was submitted to correct the second assignee's name on the previously submitted PTOL 85B. 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 second assignee's name identified thereon from:

"Radio Systems Corporation and **CMS Partners, Inc., Knoxville, TN (US)**"

to:

--Radio Systems Corporation and **XYZ Microsystems, LLC, Knoxville, TN (US)**--

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,656,291.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Chan Hee Wang, et al.	:	
Application No. 11/670,356	:	DECISION GRANTING PETITION
Filed: February 1, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SMDSHN.086AUS	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed November 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 9, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2889 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Somnath Mitra	:	
Application No. 11/670,381	:	DECISION GRANTING PETITION
Filed: February 1, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2705-0627	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 17, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 19, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2189 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 27 2010

OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

In re Application of	:	
Richard B. DRABING	:	
Application No. 11/670,385	:	DECISION ON PETITION
Filed: February 1, 2007	:	TO WITHDRAW
Attorney Docket No. ARMUNA01200	:	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 24, 2010.

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

A review of the file record indicates that the power of attorney to Sanjay B. Bagade and the attorneys of record associated with Customer No. 40518, has been revoked by the assignee of the patent application on September 16, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

cc: BAYER MATERIALSCIENCE AG
BAYER MATERIALSCIENCE LLC,
PATENTS AND LICENSING,
100 BAYER ROAD – BLDG. 8
PITTSBURGH PA 15205

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
11/670,385	02/01/2007	Richard B. DRABING	ARMUNA01200

CONFIRMATION NO. 7043

POWER OF ATTORNEY NOTICE

40518
LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

OC000000043649909

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/16/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/ttkim/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/670,385	02/01/2007	Richard B. DRABING	ARMUNA01200

CONFIRMATION NO. 7043

157
BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH, PA 15205

POA ACCEPTANCE LETTER

OC000000043649928

Date Mailed: 09/27/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/16/2010.

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

/ttkim/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/14/12

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11670402 Patent No.: 8032097

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
[redacted]

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2618

SPE **Art Unit**

PAGE 2/2 * RCVD AT 2/23/2012 5:52:34 PM [Eastern Standard Time] * SVR:W-PTOFAX-002/42 * DNIS:2733421 * CSID:5712730045 * DURATION (mm-ss):00-45

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www.uspto.gov

Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE CA 92614

MAILED

FEB 13 2012

OFFICE OF PETITIONS

In re Application of :
Farhad Bashardoost et al. :
Application No. 11/670,413 : DECISION ON PETITION
Filed: February 1, 2007 :
Attorney Docket No. **YELLO-101us** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 10, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 11, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $465, and the submission required by 37 CFR 1.114; (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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 3625 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBINSON INTELLECTUAL PROPERTY LAW OFFICE, P.C.
3975 FAIR RIDGE DRIVE
SUITE 20 NORTH
FAIRFAX, VA 22033

MAILED

SEP 09 2010

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 11/670,462 : ON PETITION
Filed: February 2, 2007 :
Attorney Docket No. 0756-8787

This is a decision on the petition, filed September 8, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 16, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2892 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

KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY MN 55422

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Ker-Min Lin	:	
Application No. 11/670,493	:	DECISION ON PETITION
Filed: February 2, 2007	:	
Attorney Docket No. USPPC2-0607D	:	
(70090.ORI)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 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 April 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 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 a Notice of Appeal; (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) 272-3208.

This application is being referred to Technology Center AU 3634 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Sven OLERUD

Application No. 11670504

Filed: February 2,2007

Attorney Docket No. BLOM-107-US

: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 12-JAN-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

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

VISTA IP LAW GROUP LLP/BSC - NEUROMODULATION
2040 MAIN STREET Suite 710
IRVINE CA 92614

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of
Anne M. Pianca :
Application No. 11/670,598 : DECISION ON
Filed: February 2, 2007 : PETITION
Attorney Docket No. 05-00965-03 :

This is in response to the petition to revive under 37 CFR 1.137(a), filed September 10, 2010.

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

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed December 30, 2009. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on March 31, 2010. The Office mailed a Notice of Abandonment on August 17, 2010.

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

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

With respect to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

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

Petitioner argues that he did not receive the December 30, 2009 non-final Office action.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply), petitioner must include an adequate showing that a **timely notification of the change of address was filed** in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of change of address.[3]

---

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

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

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

Here, there has been no showing that petitioner timely notified the Office that he changed his address. As such, the Office properly mailed the December 30, 2009 Office action to the address of record.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is **not** precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $810 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VISTA IP LAW GROUP LLP/BSC - NEUROMODULATION
2040 MAIN STREET Suite 710
IRVINE CA 92614

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of		
Anne M. Pianca	:	
Application No. 11/670,598	:	DECISION ON
Filed: February 2, 2007	:	PETITION
Attorney Docket No. 05-00965-03	:	

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

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed December 30, 2009. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on March 31, 2010. The Office mailed a Notice of Abandonment on August 17, 2010. Applicant filed a petition to revive under 37 CFR 1.137(a) on September 10, 2010. However, the petition was dismissed in a decision mailed on October 12, 2010.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an Amendment was previously filed on September 10, 2010.

The application is being forwarded to Group Art Unit 3766 for consideration of the Amendment filed September 10, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO, IL 60606

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of Joseph K. Donaldson Application No. 11/670,629 Filed: February 2, 2007 Attorney Docket No. **FDE 0003 US**	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 25, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Max Shaftal or any attorneys/agents associated with Customer Number 51500 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.

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

ROBERT D. ATKINS
605 W. KNOX ROAD, SUITE 104
TEMPE AZ 85284

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles WURSTER	:	
Application No. 11/670,640	:	DECISION ON PETITION
Filed: February 2, 2007	:	TO WITHDRAW
Attorney Docket No. 2657.0003	:	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 October 1, 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 Robert D. Atkins on behalf of the attorneys of record associated with Customer No. 84278.

The attorneys of record associated with Customer No. 84278 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CARS TO GO, LLC
166 SOUTH 222ND AVENUE
BUCKEYE AZ 85326

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/670,640	02/02/2007	Charles Wurster	2657.0003

CONFIRMATION NO. 7503

POWER OF ATTORNEY NOTICE

84278
Robert D. Atkins
605 W. Knox Road, Suite 104
Tempe, AZ 85284

OC000000044117685

Date Mailed: 10/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2010.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ROBERT D. ATKINS
605 W. KNOX ROAD, SUITE 104
TEMPE AZ 85284

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles WURSTER	:	
Application No. 11/670,680	:	DECISION ON PETITION
Filed: February 2, 2007	:	TO WITHDRAW
Attorney Docket No. 2657.0004	:	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 1, 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 Robert D. Atkins on behalf of the attorneys of record associated with Customer No. 84278.

The attorneys of record associated with Customer No. 84278 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CARS TO GO, LLC
166 SOUTH 222ND AVENUE
BUCKEYE AZ 85326

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/670,680	02/02/2007	Charles Wurster	2657.0004

CONFIRMATION NO. 7577

POWER OF ATTORNEY NOTICE

84278
Robert D. Atkins
605 W. Knox Road, Suite 104
Tempe, AZ 85284

OC000000044117684

Date Mailed: 10/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2010.

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

/dcgoodwyn/

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

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ROBERT D. ATKINS
605 W. KNOX ROAD, SUITE 104
TEMPE AZ 85284

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles WURSTER	:	
Application No. 11/670,707	:	DECISION ON PETITION
Filed: February 2, 2007	:	TO WITHDRAW
Attorney Docket No. 2657.0005	:	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 1, 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 Robert D. Atkins on behalf of the attorneys of record associated with Customer No. 84278.

The attorneys of record associated with Customer No. 84278 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CARS TO GO, LLC
166 SOUTH 222ND AVENUE
BUCKEYE AZ 85326

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/670,707	02/02/2007	Charles Wurster	2657.0005

CONFIRMATION NO. 7621

POWER OF ATTORNEY NOTICE

84278
Robert D. Atkins
605 W. Knox Road, Suite 104
Tempe, AZ 85284

OC000000044117668

Date Mailed: 10/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2010.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT D. ATKINS
605 W. KNOX ROAD, SUITE 104
TEMPE AZ 85284

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles WURSTER	:	
Application No. 11/670,751	:	DECISION ON PETITION
Filed: February 2, 2007	:	TO WITHDRAW
Attorney Docket No. 2657.0007	:	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 1, 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 Robert D. Atkins on behalf of the attorneys of record associated with Customer No. 84278.

The attorneys of record associated with Customer No. 84278 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CARS TO GO, LLC
166 SOUTH 222ND AVENUE
BUCKEYE AZ 85326

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/670,751	02/02/2007	Charles Wurster	2657.0007

CONFIRMATION NO. 7708

POWER OF ATTORNEY NOTICE

84278
Robert D. Atkins
605 W. Knox Road, Suite 104
Tempe, AZ 85284

OC000000044117650

Date Mailed: 10/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2010.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/670,790	02/02/2007	Warran B. Lineton	IG-40706 (710240-2690)	7775

EXAMINER
PATEL, ASHOK

ART UNIT	PAPER NUMBER
2889	

MAIL DATE	DELIVERY MODE
08/05/2010	PAPER

7590 08/05/2010
Robert L. Stearns
Dickinson Wright PLLC
Suite 2000
38525 Woodward Ave.
Bloomingfield Hills, MI 48304

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

August 5, 2010

Robert L. Stearns
Dickinson Wright PLLC
Suite 2000
38525 Woodward Ave.
Bloomingfield Hills MI 48304

In re Application of	:	
Warran B. Lineton	:	**DECISION ON PETITION**
Application No. 11670790	:	
Filed: 02/02/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. IG-40706 (710240-2690)	:	***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) February 09, 2007.

The petition is **GRANTED**.

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

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

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

Note: Only one set of drawings is required when petition is filed via EFS WEB.

The petition was accompanied by all of the requirements above. Therefore, the petition is GRANTED.

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

By order for

Diane Terry, Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Knox et al.	:	
Patent Number: 7,878,510	:	DECISION ON
Issue Date: 02/01/2011	:	APPLICATION FOR
Application No. 11/670849	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/02/2007	:	
Attorney Docket Number:	:	
02103-0377005/S14US4	:	

This is a decision on the petition filed on March 30, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-three (843) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-three (843) days is **DISMISSED**.

Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on August 11, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on October 1, 2010. Patentees request an additional one hundred twenty-four (124) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, February 1, 2011. Patentees aver that with the mailing of the Notice of Allowance on October 1, 2010, the Office closed examination on the present application on that date, and no continued examination took place in the 124-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Patentees assert that 124 days of B Delay should have been included in the period of delay accorded the Director, and that the Patent Term Adjustment should be calculated as 843 days, instead of 719 days.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by

continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

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

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

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning

that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination); 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the

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

end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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

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

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

notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 3, 2010, and ends on August 10, 2010, the day before the RCE, filed August 11, 2010, was filed, and is 189 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 719 days, not 843 days.

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

[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Knox et al.	:	
Patent Number: 7,878,510	:	DECISION ON RESPONSE
Issue Date: 02/01/2011	:	TO DECISION ON
Application No. 11/670849	:	APPLICATION FOR
Filing or 371(c) Date: 02/02/2007	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
02103-0377005/S14US4	:	

This is a decision on the petition filed on August 22, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-three (843) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-three (843) days is **DENIED**.

Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on August 11, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on October 1, 2010. Patentees request an additional one hundred twenty-four (124) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, February 1, 2011. Patentees aver that with the mailing of the Notice of Allowance on October 1, 2010, the Office closed examination on the present application on that date, and no continued examination took place in the 124-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Patentees assert that 124 days of B Delay should have been included in the period of delay accorded the Director, and that the Patent Term Adjustment should be calculated as 843 days, instead of 719 days.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by

continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the

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

end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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

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

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

notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 3, 2010, and ends on August 10, 2010, the day before the RCE, filed August 11, 2010, was filed, and is 189 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 719 days, not 843 days.

The instant petition under 37 CFR 1.705(d) is granted to the extent that the decision of June 22, 2011 has been reconsidered; however, the renewed petition under 37 CFR 1.705(d) is **DENIED**.

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[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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

Telephone inquiries concerning this matter should be directed attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-04-11

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 11670883 Patent No.: 7964191

CofC mailroom date: 07-20-11

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: _____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE JEFFREY STUCKER
SUPERVISORY PATENT EXAMINER Art Unit 1647

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	11670904
Filing Date	02-Feb-2007
First Named Inventor	Michael Grubb
Art Unit	2161
Examiner Name	JARED BIBBEE
Attorney Docket Number	LookSmart 0023
Title	SEARCH RESULT DELIVERY ENGINE

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 93871

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

10.40(c)(5)

Certifications

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

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

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

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

Name	LookSmart Ltd.
Address	55 2nd Avenue, Suite 700
City	San Francisco
State	CA
Postal Code	94105
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Norman E. Brunell Reg. No. 26,533/
Name	Norman E. Brunell
Registration Number	26533

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : December 15, 2011

In re Application of :

Michael Grubb

Application No : 11670904

Filed : 02-Feb-2007

Attorney Docket No : LookSmart 0023

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 15, 2011

The request is **APPROVED.**

The request was signed by Norman E. Brunell (registration no. 26533) on behalf of all attorneys/agents associated with Customer Number 93871 . All attorneys/agents associated with Cusotmer Number 93871 have been withdrawn.

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

Name	LookSmart Ltd.
Name2	
Address 1	55 2nd Avenue, Suite 700
Address 2	
City	San Francisco
State	CA
Postal Code	94105
Country	US

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

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

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 14, 2012

TO SPE OF : ART UNIT 1776

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/670907 Patent No.: 8062402 B2

Co f C mailroom date: 1-10-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Check. Column 2, line 7.

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: ok to enter

/Duane Smith/ — SPE
1776 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 09 2012

OFFICE OF PETITIONS

PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS MO 63131

In re Application of
Olney
Application No. 11/670,960
Filed: February 2, 2007
Attorney Docket No. JWO-APOP-US

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2012, to revive the above-identified application.

The petition is **DISMISSED**.

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

The petition has **not** been reviewed on the merits because the petition has not been properly signed.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. The instant petition is unsigned.

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 (EFS).

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O BOX 2245
MORRISTOWN NJ 07962-2245

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of
Manley, et al.
Application No. 11/671,147
Filed/Deposited: 5 February, 2007
Attorney Docket No. H0012305-5611

DECISION ON PETITION

This is a decision on the petition filed 22 July, 2010, and pursuant to 37 C.F.R. §1.183 to suspend the rules requiring the signature of the sole inventor for a declaration pursuant to 37 C.F.R. §1.131 (to be demonstrated in a fashion generally utilized in a petition pursuant to 37 C.F.R. §1.47).

NOTE:

Petitioner seeks waiver (*i.e.*, relief pursuant to 37 C.F.R. §1.183), but Petitioner then fails to submit the proper fee therefore and/or authorize the appropriate charge to a deposit account, and make the showing that Petitioner has made an effort to seek out information in this matter.

This is not appropriate.

Petitioners always are reminded that those registered to practice **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.[1] Registered practitioners do not satisfy this requirement simply by placing into the statements others the required showings herein.

Petitioner must make the showing with proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the

[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).

papers in question (pursuant to 37 C.F.R. §1.131 with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Should Petitioner wish to renew the petition, Petitioner **must** submit the fee pursuant to 37 C.F.R. §1.183 (Petitioner may consult the terms of the regulations at pursuant to 37 C.F.R. §1.183 and review the Office website for the current fee schedule) and make the showing required—i.e., her independent inquiry—as discussed below.

The petition pursuant to 37 C.F.R. §1.183 is **DISMISSED;** The petition pursuant to 37 C.F.R. §1.131 is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Pursuant to 37 C.F.R. §1.183." 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.

BACKGROUND

This application was filed on 5 February, 2007, and an executed oath/declaration was filed on that date, naming the co-inventors as Manley, VanVoorst and Becker.

On 22 July, 2010, an declaration pursuant to 37 C.F.R. §1.131 was filed, executed by co-invetors Manley and VanVoorst for themselves and on behalf of the nonsigning inventor Robert C. Beck (Mr. Becker).

Contemporaneously on 22 July, 2010, Petitioner David N. Fogg (Reg. 35,138) filed the present petition to waive the signature requirement of co-inventor Robert C. Becker (Mr. Becker), and in support of the petition sets forth that inventor cannot be reached or has refused to sign.

ANALYSIS

It is noted from the outset that:

- It appears that Petitioner authorized no proper fee for the petition pursuant to 37 C.F.R. §1.183.

- A search was made to determine if Petitioner had a general fee authorization in the application—the one possible alternative, filed on day of deposit of the application, does not state explicitly that the authorization is to be considered valid throughout prosecution;

The Office may not consider the petition without the fee—the fee is jurisdictional.

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an "extraordinary situation, when justice requires."

The regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation:

> **§1.183 Suspension of rules.**
>
> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f). (Emphasis supplied.)

The facts presented on the record do not adequately establish an extraordinary situation: Petitioner has yet to establish sufficiently special circumstances that would require suspension of the rules in the interests of justice.

Specifically, Petitioner's has made an incomplete/insufficient showing of (diligent) efforts to obtain signing by the sole inventor (to be demonstrated in a fashion generally utilized in a petition pursuant to 37 C.F.R. §1.47). (*See*, MPEP § 409.03, *et seq.*)

Petitioner submits, *inter alia*:

- a statement by Aaron W. Pederson (Reg. No.58,607) averring to the history of the application and a statement by Nisha N. Patel, averred to have been a "summer associate" with Petitioner's office, and describing conversations with averred assignee personnel and two (2) phone calls to Mr. Becker, but evidencing no attempt whatsoever to contact Mr. Becker in writing to forward to him the papers in question (pursuant to 37

> C.F.R. §1.131 with any necessary specification: description, claims and drawings); no copy, therefore, of a transmittal letter, and no showing that any statement of the last known address of the non-signing inventor(s) has been presented with diligence in the effort to search for/ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Ms. Patel is not averred to be (and Office records do not reveal her to be) one registered to practice before the Office; thus, she is not presumed to be aware of the statutory, regulatory and policy requirements for the showing herein, as set forth above. Such is not the case of Petitioner, who is registered to practice before the Office, with attendant 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.[2]

There does not appear to be a showing that a specific document was sent to and was received by Mr. Becker with a request that he execute and return same by a date certain, and he thereafter failed or otherwise refused to sign.

Where an inventor is unavailable, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. Along with statement of facts submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts, the documentary support for the averments/statements/declarations are necessary. (*See*, generally, MPEP § 409.03, *et seq.*.)

Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. (*See*, MPEP § 409.03(d).)

Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

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.

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[2] Petitioner may find it beneficial to step through the requirements of a grantable petition pursuant to 37 C.F.R. §1.47(a), which is the model for the showing herein, (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.)

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

CONCLUSION

The petition is **dismissed** without prejudice.

With any request for reconsideration, Petitioner **must** include the necessary statements and copies of supporting documents.

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLIFFORD H. KRAFT
320 ROBIN HILL DR.
NAPERVILLE IL 60540

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Leslie S. Caplan	:	
Application No.: 11/671160	:	ON PETITION
Filing or 371(c) Date: 02/05/2007	:	
Title of Invention: IMPACT ABSORBING	:	
KEYBOARD, CONTOURED TO THE	:	
NATURAL SHAPE OF THE HAND	:	

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 April 14, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed June 24, 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 September 25, 2008. A Notice of Abandonment was mailed January 5, 2009.

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.

This application is being referred to Technology Center Art Unit 2854 for processing of the Amendment 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 1 0 2011

In re Application of	:	
Michael Kaleko, et al.	:	
Serial No. 11/671212	:	NOTICE OF WITHDRAWAL
Filed: February 5, 2007	:	FROM ISSUE
For: LENTIVIRAL PACKAGING CONSTRUCTS	:	UNDER 37 CFR 1.313(B)

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO 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 Issue Fee 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 Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1600

MDIP LLC
POST OFFICE BOX 2630
MONTGOMERY VILLAGE, MD 20886-2630

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELLSTAT MANAGEMENT COMPANY. LLC
LEGAL DEPARTMENT
930 CLOPPER ROAD
GAITHERSBURG MD 20878

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael KALEKO et al.	:	
Application No. 11/671,212	:	DECISION ON PETITION
Filed: February 05, 2007	:	
Attorney Docket No. AVT-004.3	:	

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

The petition is **GRANTED**.

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

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 $1,860.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of March 10, 2011 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1636 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 01 2011

OFFICE OF PETITIONS

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
Kedar N. PRASAD et al. : ON PETITION
Application No. 11/671,317 :
Filed: February 5, 2007 :
Atty. Docket No.: P/4205-25 V2694

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

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136 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 respond in a timely manner to the Notice of Allowance and Fee(s) Due mailed July 13, 2009, which set a statutory period for reply of three (3) months. The application became abandoned October 14, 2009. A Notice of Abandonment was mailed October 27, 2009.

A grantable petition under 37 CFR1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for 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 CFR1.137(d). The petition lacks item (3).

Regarding item (3), it is noted that the instant petition is unsigned. Accordingly, the petition is not grantable.

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

Robert DeWitty
Petitions Attorney
Office of Petitions

cc: Dan Delarosa, Esq.
300 East 77th Street, Suite 24c
New York, NY 10075

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JAN 23 2012
OFFICE OF PETITIONS

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
Kedar N. PRASAD et al. : ON PETITION
Application No. 11/671,317 :
Filed: February 5, 2007 :
Atty. Docket No.: P/4205-25 V2694

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

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136 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 respond in a timely manner to the Notice of Allowance and Fee(s) Due mailed July 13, 2009, which set a statutory period for reply of three (3) months. The application became abandoned October 14, 2009. A Notice of Abandonment was mailed October 27, 2009.

A grantable petition under 37 CFR1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for 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 CFR1.137(d). The petition lacks item (3).

Regarding item (3), it is noted that the instant petition is unsigned. Accordingly, the petition is not grantable.

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

Robert DeWitty
Petitions Attorney
Office of Petitions

cc: Dan Delarosa, Esq.
300 East 77th Street, Suite 24c
New York, NY 10075

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Application of	:
Barnett et al.	:
Application No. 11/671,323	: DECISION GRANTING PETITION
Filed: February 5, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. WHEN0001C2	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 11, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

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

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

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

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 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 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 agent must contain his/her registration number. However, the accompanying document does include the signature and registration number for Michael A. Glenn. Therefore, the petition is accepted as being properly signed.

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 2172 for appropriate action on the amendment filed August 11, 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
11/671,323	02/05/2007	2172	2966	WHEN0001C2	21	5

CONFIRMATION NO. 8791

CORRECTED FILING RECEIPT

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

OC000000049709952

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)

Theodore H. Barnett, San Francisco, CA;
Anthony A. Espinoza, San Francisco, CA;
Vengpui Louis Lao, San Francisco, CA;
David C. Sobotka, Redwood City, CA;
Andrew W. Zaeske, Los Altos, CA;

Power of Attorney:
Edward Radlo--26793
Greg Sueoka--33800
Amir Raubvogel--37070

Domestic Priority data as claimed by applicant

This application is a CON of 10/116,301 04/03/2002 PAT 7,174,517
which is a CON of 09/265,515 03/10/1999 PAT 6,369,840

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: 02/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/671,323**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multi-Layered Online Calendaring and Purchasing

Preliminary Class

715

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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Commissioner for Patents
United States Patent and Trademark Office
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MAY 25 2011

OFFICE OF PETITIONS

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

In re Application of	:	
M. S. ABDOU	:	
Application No. 11/671,391	:	ON PETITION
Filed: February 5, 2007	:	
Attorney Docket No. 37685-522001US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 21, 2010, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 22, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $405 filing fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of July 21, 2010 is accepted as having been unintentionally delayed.

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

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 April 19, 2011 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box

1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 3733 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
SUITE 2300
LOS ANGELES CA 90017

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of	:
Kim et al.	:
Application No. 11/671,437	: DECISION ON PETITION
Filed: February 5, 2007	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2101-3308	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/765,488, filed February 3, 2006, set forth in the amendment filed January 22, 2010.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on February 5, 2007, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/765,488, which was filed on February 3, 2006, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 119(e) statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 119(e) statement. The court specifically stated:

> Section 119(e) merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

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

As authorized, the $1410.00 fee required by 37 CFR 1.78(a)(6)(ii) was charged to petitioner's Deposit Account No. 50-2290.

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

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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660 S. FIGUEROA STREET
SUITE 2300
LOS ANGELES CA 90017

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 11/671,437	:	DECISION GRANTING PETITION
Filed: February 5, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2101-3308	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 24, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/765,488, filed February 3, 2006, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the above-noted, prior-filed provisional application for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the

instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This matter is being referred to Technology Center AU 2617 for appropriate action on the amendment submitted November 24, 2010, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/765,488.

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
11/671,437	02/05/2007	2617	2030	2101-3308	38	3

CONFIRMATION NO. 9004

CORRECTED FILING RECEIPT

35884
LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

OC000000044871568

Date Mailed: 12/09/2010

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

Applicant(s)

Sang G. Kim, San Diego, CA;
Shu Wang, San Diego, CA;
Young Cheul Yoon, San Diego, CA;
Li-Hsiang Sun, San Diego, CA;
Soonyil Kwon, San Diego, CA;
Suk Woo Lee, San Diego, CA;
Hobin Kim, San Diego, CA;

Assignment For Published Patent Application

LG Electronics Inc.

Power of Attorney: The patent practitioners associated with Customer Number 35884

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/765,487 02/03/2006
and claims benefit of 60/775,022 02/17/2006
and claims benefit of 60/765,488 02/03/2006

Foreign Applications

If Required, Foreign Filing License Granted: 12/08/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/671,437**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF TRANSMITTING AT LEAST ONE SUB-PACKET BASED ON FEEDBACK INFORMATION IN A WIRELESS COMMUNICATION SYSTEM

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In Re application of
Atsushe Watakabe et al.
Application No. 11/671,665
Filed: February 6, 2007
Attorney Docket No. 302986US0DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed January 13, 2011 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the IDS, filed September 14, 2010, be expunged from the record. Petitioner states that the papers submitted were erroneously filed in the instant application.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in a different application.

The expunged material has been removed from the official file.

In accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application. As no petition is needed, the petition fee is refunded.

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of	:	
MORIN	:	
Application No. 11/671,722	:	DECISION ON PETITION
Filed: February 6, 2007	:	TO WITHDRAW
Attorney Docket No. ILX-11	:	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 30, 2011.

The request is **DISMISSED**.

The request to withdraw from record cannot be approved because the request to change the correspondence address is not acceptable. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 37 CFR 3.71 states:

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

According to a review of USPTO records, Branch Banking and Trust Company is not the current assignee of the above-identified application. In this regard, there is currently no Statement under 37 CFR 3.73 of record in the instant application, the Office cannot change the correspondence address to the address indicated on the Request to Withdraw filed August 30, 2011.

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

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of	:	
MORIN	:	
Application No. 11/671,722	:	ON PETITION
Filed: February 6, 2007	:	
Attorney Docket No. ILX-11	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 10, 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 March 11, 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on September 9, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-2079.

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

This application is being referred to Technology Center AU 1745 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SEANN P. LAHEY
MCNAIR LAW FIRM, P.A.
P.O. BOX 447, GREENVILLE, SC 29602-0447

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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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NOV 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Evans et al.	:	
Application No. 11/671,757	:	DECISION ON PETITION
Filed: 02/06/2007	:	
Attorney Docket No. 65393	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 25, 2010, which set a shortened statutory period for reply of three (3) months. Petitioners obtained an extensions of time for response within the third month pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on September 26, 2010.

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

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner on the amendment submitted in accordance with 37 CFR 1.114.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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

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

Attorney Docket Number: 112025-0689	
Application Number: 11/671,805	Filing Date (or 371(b) or (f) Date): February 6, 2007
Patent Number: 7,668,120	Issue Date: February 23, 2010
First Named Inventor: Mark A. Kolar	
Title: Virtual IP-Based A/V Inputs for Universal Media Servers	

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

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

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

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

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

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

☐ *Total of _____ forms are submitted.

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

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

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

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 08/17/2010

Applicant	: Mark A. Kolar	: DECISION ON REQUEST FOR
Patent Number	: 7668120	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/671,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **377** 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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GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of Thomas Kennedy :
Application No. 11/671,823 : Decision on Petition
Filing Date: February 6, 2007 :
Attorney Docket No. 24U03.1-424 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2010, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on April 2, 2009.

Petitioner filed a reply on June 18, 2009.

The Office mailed a Notice Requiring Excess Claim Fees on June 18, 2009. The notice set a shortened statutory period for reply of the longer of one month or thirty days.

The Office did not receive a reply to the June 18, 2009 notice. As a result, the application became abandoned on Tuesday, July 21, 2009.

The Office issued a Notice of Abandonment on February 25, 2009.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), Petitioner has submitted the excess claim fees identified in the June 18, 2009 notice.

As to item (2), Petitioner has submitted the $810 petition fee.

As to item (3), the petition states 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 petition is signed by Attorney Lawrence Villanueva. Attorney Villanueva was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Villanueva may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Villanueva that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due 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.

As to item (4), a terminal disclaimer is unnecessary in this case.

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

Technology Center Art Unit 1611 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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/1/10

TO SPE OF : ART UNIT 2472 (2400)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/671,884 Patent No.: 7,688,866

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER ~~2600~~ 2400

SPE _____ **ART UNIT** 2472

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FSB FISHERBROYLES, LLP
THE PINNACLE BUILDING
3455 PEACHTREE ROAD, NE., FIFTH FLOOR
ATLANTA, GA. 30326

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
HAIHONG ZHU et al	:	
Application No. 11/671,929	:	ON PETITION
Filed: February 6, 2007	:	
Attorney Docket No. 00912.P001.U1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 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 December 6, 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 March 7, 2011.

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

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 $555.00 extension of time fee submitted with the petition on June 30, 2011 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application is being referred to Technology Center AU 2858 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) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Patent No. 8,014,754 :
Issue Date: September 6, 2011 :
Application No. 11/671,938 : DECISION ON PETITION
Filed: February 6, 2007 :
Attorney Docket No. 302377US2 :

This is a decision on the Petition For Certificate Of Correction Under 37 CFR §1.183, filed October 7, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's address. A completed Certificate of Correction Form was submitted with Petition.

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

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

"Swisscom AG, Munchringer, Switzerland"

to:

--Swisscom AG, Bern, (CH)--

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 petition 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 (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. 8,014,754.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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POLY-AMERICA LP
LEGAL DEPARTMENT
2000 WEST MARSHELL DRIVE
GRAND PRARIE TX 75051

MAILED

DEC 09 2011

OFFICE OF PETITIONS

In re Application of	:	
George M. Hall	:	
Application No. 11/672,009	:	ON PETITION
Filed: February 6, 2007	:	
Attorney Docket No. PAT-US-0018	:	

This is in response to petition to revive under 37 CFR 1.137(b), filed November 29, 2011.

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

The above-identified application became abandoned for failure to file a proper response to the final Office action, mailed October 5, 2010, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on December 2, 2010. However, by Advisory Action mailed December 10, 2010, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply having been received, the application became abandoned on January 6, 2011. The Office mailed a Notice of Abandonment on June 6, 2011.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3782 for consideration of the RCE, filed November 29, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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REYNOLDS PACKAGING GROUP
C/O GREENBERG TRAURIG, LLP
2101 L STREET, NW
SUITE 1000
WASHINGTON DC 20037

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of
Alexander Perelman
Application No. 11/672,022
Filed: February 6, 2007
Attorney Docket No. **111246.100300**

DECISION ON PETITION

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 8, 2009. Accordingly, the date of abandonment of this application is March 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,150 and the publication fee of $300, (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: Douglas B. Teaney
Greenberg Traurig LLP
77 West Wacker Drive
Suite 3100
Chicago, IL 60601

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

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 103 days.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,794,147

DATED : September 14, 2010 **DRAFT**

INVENTOR(S) : Perelman

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 0 days" and insert -- by 103 days --

UNITED STATES PATENT AND TRADEMARK OFFICE

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REYNOLDS PACKAGING GROUP
C/O GREENBERG TRAURIG, LLP
2101 L STREET, NW
SUITE 1000
WASHINGTON DC 20037

In re Patent No. 7,794,147
Issued: September 14, 2010
Application No. 11/672,022
Filed: February 6, 2007
Dkt. No.: 111277.100300/US

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

This is a decision on the petition under 37 CFR 1.705(d) filed November 15, 2010 requesting that the patent term adjustment be increased from zero days to 104 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

The patent is entitled to an overall adjustment of 103 days.

The above-identified application issued as U.S. Pat. No. 7,794,147 on September 14, 2010. The patent issued with a patent term adjustment of zero days. The instant application for patent term adjustment was timely filed November 15, 2010. Patentee contests the reductions of 156 days and 116 days in connection with the petition and reply to the Notice of Allowance filed July 2, 2010. Patentee asserts that the correct period of reduction in this regard is 156 days.

Review of the record reveals that the correct period of reduction pursuant to 37 CFR 1.704(c)(3) in connection with the post-allowance submission is 157 days. The reduction commenced March 9, 2010, the date of abandonment, and ended August 12, 2010, the date that the petition decision reviving the application was mailed.

The reduction of 116 days assessed in connection with the issue fee payment has been restored given the time period of the reduction overlaps the period of reduction of 157 days assessed in connection with the petition filed July 2, 2010.

In view thereof, the patent is entitled to an overall adjustment of 103 days (260 days under § 1.702 – 157 days of applicant delay under § 1.704).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FEB 11 2011

OFFICE OF PETITIONS

FRANK F. TIAN
1300 SW Campus Drive No.5-7
Federal Way WA 98023

In re Application of	:	
Lei Chen et al.	:	
Application No. 11/672,036	:	DECISION ON PETITION
Filed: February 6, 2007	:	
Attorney Docket No. LSFFT-030	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue and publication fees on or before February 17, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 17, 2008. Accordingly, the date of abandonment of this application is February 18, 2009. A Notice of Abandonment was mailed on March 12, 2009.

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

As to item (3) the statement as indicated above was not provided on the petition.

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

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

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Frank F. Tian
Frank Tian & Associates
331-4A Third Avenue
Long Beach, CA 07740

UNITED STATES 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 9, 2012

In re Application of :

Jeffrey Thomas

Application No : 11672041

Filed : 06-Feb-2007

Attorney Docket No : JT-LUGBUDDY

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed January 9, 2012 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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	11672041
Filing Date	06-Feb-2007
First Named Inventor	Jeffrey Thomas
Art Unit	3781
Examiner Name	TRI MAI
Attorney Docket Number	JT-LUGBUDDY
Title	ARTICLE SECUREMENT SYSTEM

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

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

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

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

☒ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ( ) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- (●) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/glennlwebb/
Name	Glenn L. Webb
Registration Number	32668

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen C. Kaufman
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, New York 10598

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MAR 16 2011

OFFICE OF PETITIONS

In re Application of
Boaz CARMELI
Application No. 11/672,045
Filed: 7 February 2007
Atty. Docket No. IL920060082US1

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

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply, within the meaning of 37 CFR 1.113, in a timely manner to the final Office Action mailed 14 September 2009 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned on 15 December 2009, and Notice of Abandonment mailed on 5 April 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, or the filing of a continuing application. *See,* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application. See attached copy of Advisory Action.

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

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

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

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

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

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

Enclosure: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/672,045	Applicant(s) CARMELI, BOAZ	
	Examiner ANDREW BEE	Art Unit 2612	

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

THE REPLY FILED 02 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *There appear to still be some 112, second paragraph, issues with the claims*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *2-5 and 7-11*.
   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: There appear to still be 112, second paragraph, issues with the independent claims. Applicant's representative may contact Examiner to discuss how to correct these issues.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

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APR 21 2011

OFFICE OF PETITIONS

Stephen C. Kaufman
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, New York 10598

In re Application of Boaz CARMELI Application No. 11/672,045 Filed: 7 February 2007 Atty. Docket No. IL920060082US1	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED.**

The 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 14 September 2009 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned on 15 December 2009, and Notice of Abandonment mailed on 5 April 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $1620.00, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

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

The application file will be referred to Technology Center Art Unit 2612 for further action on the filed Response.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/672,079	02/07/2007	Harold A. Brokish	1493-007	1182

32905 7590 10/15/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
KRUSE, DAVID H

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
10/15/2010	ELECTRONIC

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

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

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

JondleOA@jondlelaw.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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OCT 1 5 2010

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

In re Application of:	:
Harold A. Brokish	: PETITION DECISION
Serial No.: 11/672,079	:
Filed: February 7, 2007	:
Attorney Docket No.: **1493-007**	

This is in response to the petition under 37 CFR § 1.59(b), filed October 5, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105 submitted to the Patent Office on July 27, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Patent No. 7858853	:	
Issue Date: 12/28/2010	:	
Application Number: 11/672079	:	ON PETITION
Filing Date: 02/07/2007	:	
Attorney Docket Number: 1493-007	:	

This is a decision on the request under 37 CFR 3.81(b),[1] filed on June 10, 2011, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Receipt of the petition fee and certificate of correction fee is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,948,000 :
Issued: May 24, 2011 :
Application No. 11/672,114 : NOTICE
Filed: February 7, 2007 :
Attorney Docket No. 88275-720523 :
(000330US)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 26, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : **8009227**
Ser. No. : **11/672119**
Inventor(s) : **DUNCAN, ED**
Issued : **08/30/2011**
Title : **METHOD AND APPARATUS FOR REDUCING DEVICE AND SYSTEM POWER CONSUMPTION LEVELS**
Docket No. : **05EDI29352829**

Re: Request for Certificate of Correction

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

In regards to the alleged error(s) in the Specification, Column 2 Line 55, you didn't specify where to insert the letter "a". An example would be, insert "a" after the word "be".

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

A Certificate of Correction will be issued to correct the remaining errors.

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

Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 SOUTH ORANGE AVENUE – Suite 1401
P.O. BOX 3791
ORLANDO FL 32802-3791

OL

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

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

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

Attorney Docket Number: CISCO16437	
Application Number: 11/672,132	Filing Date (or 371(b) or (f) Date): February 7, 2007
Patent Number: 7,668,523	Issue Date: February 23, 2010
First Named Inventor: Andrew R. Adams	
Title: Adaptive AGC in a Wireless Network Receiver	

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

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

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

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

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

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

☐ *Total of _____ forms are submitted.

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

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

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

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

Mail Date: 08/13/2010

Applicant	: Andrew R. Adams	: DECISION ON REQUEST FOR
Patent Number	: 7668523	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/672,132	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

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

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Zanini et al. :
Application No. 11/672,200 : ON APPLICATION FOR
Filed: February 7, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. VTN5121USNP :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE filed May 19, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least four hundred five (405) days, not two hundred (200) 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 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).

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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.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/06/10

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction for Appl. No.: 11672210 Patent No.: 7807446

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.

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

Comments: _____

/Jill Warden/ 1773
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/06/10

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction for Appl. No.: 11672210 Patent No.: 7807446

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

[redacted]

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Formatted: Indent: Left: 1.22"

Comments: _____

/Jill Warden/ 1773
SPE **Art Unit**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

MAILED
SEP 28 2010
OFFICE OF PETITIONS

In re Application of Gil Alfredo Vargas Application No. 11/672,532 Filed: February 8, 2007 Attorney Docket No. 2006-0286.02	: : : : :	DECISION ON PETITION

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

This application became abandoned for failure to timely pay the issue and publication fees on or before August 17, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 17, 2010. Accordingly, the date of abandonment of this application is August 18, 2010.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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PHILIP O. POST
INDEL, INC.
PO BOX 157
RANCOCAS NJ 08073

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Michael A. Nallen, et al. :
Application No. 11/672,544 : DECISION ON PETITION
Filed: February 8, 2007 :
Attorney Docket No. TT-004US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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, March 16, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 17, 2010.

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

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

This application is being referred to Technology Center AU 1734 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Shankar Vaidyanathan, et al.	:	
Application No. 11/672,558	:	DECISION GRANTING PETITION
Filed: February 8, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MSFT-5859/300537.02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 30, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU2193 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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Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
OCT 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Hiroki Mori	:	
Application No. 11/672,698	:	DECISION GRANTING PETITION
Filed: February 8, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 006777.00108	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2884 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

MAILED
OCT 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Linda S. Avey	:	
Application No. 11/672849	:	
Filing or 371(c) Date: 02/08/2007	:	ON PETITION
Attorney Docket Number:	:	
3787.1	:	

This is a decision on the Petition Under 37 CFR 1.137(b), filed September 16, 2011, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 9, 2010. 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 complete and proper reply having been received, the application became abandoned on March 10, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

This application is being referred to Technology Center Art Unit 1631 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/20/11

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 11673038 Patent No.: 7966570

CofC mailroom date: 09/09/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Kieu Vu/ 2173

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110809

DATE : July 14, 2011

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 7914803

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

The mistake for which a correction is sought changes the scope of the claims and thus would require reexamination.

/MICHAEL G HARTLEY/
Supervisory Patent Examiner.Art Unit 1618

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

August 10, 2011

Scott A. Chapple, IP Legal
Alcon Research, Ltd.
6201 South Freeway, TB4-8
Fort Worth, TX 76134-2099

Patent No: 7,914,803 B2
Application No: 11/673,047
Applicant: Masood A. Chowhan, et al.
Issued: March 29, 2011
Title: **OPHTHALMIC COMPOSITIONS CONTAINING A SYNERGISTIC COMBINATION OF THREE POLYMERS**

Request for Certificate of Correction:

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

The errors complained of in your request cannot be corrected since: "per the examiner, the mistakes for which a correction is sought changes the scope of the claims and thus would require re-examination".

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

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of :
Dustin C. Kirkland, et al. :
Application No. 11/673,093 : DECISION ON PETITION
Filed: February 9, 2007 :
Attorney Docket No. AUS920060722US1 :

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

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

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

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

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

This application is being referred to Technology Center AU 2456 for appropriate action by the Examiner in the normal course of business on the reply received July 13, 2010.

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

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Verbakel et al.	:	
Application No. 11/673,113	:	DECISION ON PETITION
Filed: February 9, 2007	:	
Attorney Docket No. PHQ98017US3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 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 non-final Office action mailed, November 16, 2007 and the Non-Responsive Amendment Notice mailed May 30, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 1, 2008. A 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 an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

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 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.

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

This application is being referred to Technology Center AU 2627 for 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
www.uspto.gov

RODMAN RODMAN
10 STEWART PLACE
SUITE 2CE
WHITE PLAINS NY 10603

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 11/673331	:	DECISION
Filing or 371(c) Date: 02/09/2007	:	ON PETITION
Attorney Docket Number: RR-650	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 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). Accordingly, the date of abandonment of this application is September 30, 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; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1732 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant filed a reply to the Office action on September 29, 2010; however, the reply failed to place the application in condition for allowance.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Application of

Greist, et al. :

Application No. 11/673,340

: DECISION ON PETITION

Filed: February 9, 2007

:

Attorney Docket No. **P0719**

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a proper and timely manner to the Notice of Panel decision from Pre-Appeal brief Review mailed May 17, 2011, which set a shortened period for reply of one (1) months from its mailing date, or the balance of the period for filing an appeal brief after the filing of the Notice of Appeal (whichever was greater). Accordingly, the application became abandoned on June 18, 2011. Applicant was informed of the abandonment of the application on December 21, 2011.

The appeal brief filed February 6, 2011, is noted.

The application is being forwarded to Technology Center 1700, GAU 1724 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/21/2012

TO SPE OF : ART UNIT 1727

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/623416 Patent No.: 7964313 B2

CofC mailroom date: 3/13/2012

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: The Title

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:

Barbara Gilliam — **SPE**

1727 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

63704
HESS PATENT LAW FIRM, P.C.
9 Miramar Lane
Stamford, CT 06902

MAILED

NOV 02 2010

PCT LEGAL ADMINISTRATION

In re Application of
DOGLIONI MAJER, Luca
Application No.: 11/673,465
Filing Date: February 9, 2007
Attorney Docket No.: MGT-07108E50
For: DISPOSABLE CAPSULE FOR DRINKS

DECISION

This is a decision on the petition under 37 CFR 1.55(c) filed 28 December 2009, which is treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application designating the United States of America set forth in the amendment filed November 2, 2009.

The petition is **GRANTED**.

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

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

The petition complies with the requirements for a grantable petition under 37 CFR §§ 1.78(a)(3) in that (1) a reference to the prior-filed international application designating the United States of America was submitted in an amendment filed November 2, 2009 in accordance with 37 CFR 1.76 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) was also submitted on November 2, 2009; and (3) applicant's statement in the petition filed December 28, 2009 is construed as meaning 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 this is incorrect, applicant **MUST IMMEDIATELY** notify the Office of PCT Legal

Administration. As so construed, then item (3) is satisfied.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 to the prior-filed international application satisfies the conditions of 37 CFR §§ 1.78(a)(3), the petition is granted.

However, applicant's request for a refund of the surcharge fee is **DISMISSED** without prejudice for the following reason:

The phrase "Entry based on PCT/IT2004/00503" listed on the preliminary amendment submitted on February 9, 2007 does not constitute a proper claim for benefit as it does not provide any relationship between the applications, *i.e.,* whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application. *See* MPEP § 201.11.

In addition, amendments to the specification must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification. The phrase "Entry based on PCT/IT2004/00503" listed at the top of a preliminary amendment does not conform to any of those methods. *See* 37 CFR 1.121(b); *see also* MPEP § 714(2)(B).

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) 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 applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this decision may be directed to James Thomson at (571) 272-3302.

This matter is being referred to Technology Center Art Unit 3742 for appropriate action on the amendment filed November 2, 2009, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed

international application designating the United States of America.

Bryan Lin

Bryan Lin
Legal Examiner
PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/673,529	02/09/2007	Yun-Qing Shi	27592-00217-US1	2872

30678 7590 04/13/2012
CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

EXAMINER
SHERALI, ISHRAT I

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
04/13/2012	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/27/2012

TO SPE OF : ART UNIT 2624 Mehta Bhavesh (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/673529 Patent No.: 8023747

CofC mailroom date: 1/20/2012

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

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

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

Comments: _____

/Matthew C. Bella/ 2624

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUN 01 2011
OFFICE OF PETITIONS

GEOFFREY E DOBBIN PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

In re Application of	:	
Fitzpatrick, et al.	:	
Application No. 11/673,555	:	ON PETITION
Filed: February 9, 2007	:	
Attorney Docket No. GDRMF01W	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 7, 2011.

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

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Missing Parts, mailed March 9, 2007. This Notice set an extendable period for reply of two (2) months for applicant to submit an executed oath or declaration, together with the surcharge for its late filing. No reply having been received, the application became abandoned on May 10, 2007. The Office mailed a Notice of Abandonment on November 19, 2007.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an executed declaration and surcharge. While the application has been abandoned for an extended period of time, petitioner has provided a satisfactory explanation for the delay.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES M. SLAVENS
1160 PIERCE STREET
202
LAKEWOOD CO 80214

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of
Slavens
Application No. 11/673,559
Filed: February 10, 2007
Title: SPREADSHEET ROTATING CELL OBJECT

DECISION ON PETITION

This is a decision on the petition filed October 4, 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 to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed December 7, 2009. 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 March 8, 2010. A Notice of Abandonment was mailed on August 3, 2010.

Petitioner contends that a reply to the December 7, 2009 non-final Office action was submitted within 90 days. In support of petitioner's contention a copy of a certified mail receipt has been provided.

Pursuant to 37 CFR 1.8:

Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set

period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
(ii) **The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission.** The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

A review of the record shows that although the Office is in receipt of a response to the non-final Office action dated March 11, 2010. The reply submitted on March 11, 2010 does not include a certificate of mailing pursuant to 37 CFR 1.8.[1] As such the date that the response was received in the Office was outside of the three month reply period. The submission of the certified mail receipt without a certificate of mailing pursuant to 37 CFR 1.8 cannot result in the withdrawal of the abandonment.

If petitioners cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioners should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810(small entity)/ $1620 petition fee.

---

[1] A suggested format for a Certificate of Mailing and a Certificate of Transmission under 37 CFR 1.8 to be included with the correspondence is reproduced below.

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
on _____.
(Date)
Typed or printed name of person signing this certificate

_____
Signature_____

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES M. SLAVENS
1160 PIERCE STREET
202
LAKEWOOD CO 80214

MAILED
MAR 08 2011
OFFICE OF PETITIONS

In re Application of
Slavens
Application No. 11/673,559
Filed: February 10, 2007
Title: SPREADSHEET ROTATING CELL OBJECT

DECISION ON PETITION

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on February 7, 2011.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on December 7, 2009. The Notice set an extendable three-month reply period of March 7, 2010. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on March 8, 2010. A Notice of Abandonment was mailed on August 3, 2010. A petition filed under 37 CFR 1.181 was dismissed on December 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 an amendment (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 2178 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/21/11

TO SPE OF : ART UNIT: 1716 Attn: HASSANZADEH PARVIZ (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/673852 Patent No.: 8043432

CofC mailroom date: 12/07/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Please check Specifications & ClaimsTasneem Siddiqui**
1 and 22 should these amended claims

be amended again or not

Certificates of Correction Branch

703-756-1814 & 703-756-1593

Thank You For Your Assistance

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

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

Comments: Approved all corrections.

/Parviz Hassanzadeh/ 1716
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY LLP
IP DEPARTMENT, ATTN: DISETRONIC LICENSING AG
50 SOUTH SIXTH STREET, SUITE 1500
MINNEAPOLIS, MN 55402-1498

MAILED
SEP 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Simon Scheurer, et al.	:	
Application No.: 11/673,939	:	ON PETITION
Filed: February 12, 2007	:	
Attorney Docket No.: 188968/US	:	

This is a decision on the petition, filed September 15, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3767 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET, SUITE 2700
INDIANAPOLIS, IN 46204

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Application of :
Andrew LUMSDAINE, et *al.* :
Application No. 11/673,944 :
Filed: February 12, 2007 :
Attorney Docket No. **IURTC-P007-US-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 March 7, 2011.

The request is **APPROVED**.

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

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

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

There is an outstanding Office action mailed December 7, 2010 that requires a reply from the applicant.

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

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

cc: **ANDREW LUMSDAINE**
3105 FORRESTER STREET
BLOOMINGTON, IN 47401

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

MAILED

DEC 14 2011

OFFICE OF PETITIONS

In re Application of :
Hayes et al. :
Application No. 11/674,066 :
Filed: February 12, 2007 :
Attorney Docket No. SAN002CON :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed April 4, 2011. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). An improper request for continued examination (RCE) was filed July 5, 2011. Accordingly, this application became abandoned on July 5, 2011.

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

As to item (1), although petitioner has submitted a request for continued examination (RCE) and information disclosure statements (IDS), the application was held abandoned for failure to pay the issue and publication fees. Thus, the required reply also must include the submission of the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. See MPEP 711.03(c).

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) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEVIN J. MCNEELY, ESQ.
5335 WISCONSON AVENUE, NW
SUITE 440
WASHINGTON DC 20015

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Comenos	:	
Application No. 11/674,178	:	DECISION ON PETITION
Filed: February 13, 2007	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.137(B)
WRAY.8005.0001	:	
Title: SHOWER RAIL ASSEMBLY	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 30, 2012, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed March 11, 2011, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 12, 2011. A notice of abandonment was mailed on September 28, 2011.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was

unintentional, and;

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

With this petition, Petitioner has submitted, *inter alia*, an amendment and remarks, 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.

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 and remarks that were each received on January 30, 2012 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.[1] All other inquiries concerning this application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/674,219	02/13/2007	Yutaka Murakami	733156.415C1	4134

96896 7590 03/21/2011
Seed Intellectual Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, WA 98104

EXAMINER
GUARINO, RAHEL

ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
03/21/2011	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):

jeffs.docketing@seedip.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110307

DATE : March 07, 2011

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7778339

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:

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

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OFFICE OF PETITIONS

IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
17330 PRESTON ROAD
SUITE 100B
DALLAS TX 75252

In re Application of	:	
Michael A. Ko, et al.	:	
Application No. 11/674,246	:	DECISION GRANTING PETITION
Filed: February 13, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AUS920060684US1	:	

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 October 13, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2437 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,953,294	:
ANA CRISTINA ANDRES DEL VALLE	: DECISION ON REQUEST FOR
Issue Date: May 31, 2011	: RECONSIDERATION OF
Application No. 11/674,255	: PATENT TERM ADJUSTMENT
Filed: February 13, 2007	:
Attorney Docket No. 12587-0216001	:
Title: RESHAPING A CAMERA IMAGE	:

This is a decision on the petition filed on August 1, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-six (876) days.

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

BACKGROUND

On May 31, 2011, the above-identified application matured into U.S. Patent No. 7,953,294, with a revised patent term adjustment of 826 days. On August 1, 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 876. 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 April 12, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 50 day period from April 12, 2011 (the mailing date of the Notice of Allowance) until May 31, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 50 days and be increased from 198 to 248 days. Patentee concludes that the correct patent term adjustment is 876 days (the sum of 709 days of "A delay" and 248 days of "B delay" minus 38 days of overlap between "A delay" and "B delay" - 43 days of applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the

issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 198 days based on the application having been filed under 35 U.S.C. 111(a) on February 13, 2007, and the patent not having issued as of the day after the three year date, February 14, 2010, and a request for continued examination under 35 U.S.C. 132(b) having been filed on August 31, 2010. In other words, the 50-day period beginning on the date of mailing of the Notice of Allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C.

132(b)[1]. Thus, 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

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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.

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. 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

[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

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

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period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

application 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).

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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.

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 August 31, 2010, and the patent issued by virtue of that request on May 31, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 12, 2011, and ending on May 31, 2011, is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 826 days indicated on the patent is correct.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark Young, P.A.
12086 Fort Caroline Road
Unit 202
Jacksonville, Florida 32225

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In re Application of	:	
Carol BLODGETT et al.	:	DECISION GRANTING PETITION
Application No. 11/674,257	:	UNDER 37 CFR 1.137(b)
Filed: 13 February 2007	:	
Atty. Docket No.: CB07.001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 7 January 2010, to revive the above-identified application ("Application").

The petition is **GRANTED**.

The Application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 12 November 2009 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 13 February 2010, with notification mailed 25 May 2010.

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

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $810.00 (small entity), and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

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

The application file will be referred to Technology Center AU 3751 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 08 2010
OFFICE OF PETITIONS

HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

In re Patent No. 7,783,791	:	
Issue Date: August 24, 2010	:	
Application No. 11/674,308	:	DECISION ON PETITION
Filed: February 13, 2007	:	
Attorney Docket No. P0720	:	

This is a decision on the Certificate Of Correction Transmittal Letter, filed September 10, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to identify –Lennox Industries, Inc.-- as the correct assignee to the Title Page of the Patent via a Certificate of Correction.

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

Petitioner requests that the present Petition was submitted to identify --Lennox Industries, Inc.-- on the previously submitted PTOL-85B and that such error to be corrected was inadvertent.

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

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

U.S. Patent and Trademark Office assignments records disclose that an assignment *Lennox Industries Inc.* was submitted for recordation on September 9, 2010. Therefore, the recorded assignment was **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certification of correction would not be proper.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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

AKO TOREN
1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020-1182

MAILED

JAN 20 2011

OFFICE OF PETITIONS

NOTICE

In re Patent No. 5,909,867 :
Issued: June 8, 1999 :
Application No. 09/085,431 :
Filed: May 27, 1998 :
Attorney Docket No. DT-2600 :

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 application must be paid at the large entity rate.

The file does not indicate a change of address has been submitted, although the address given on the communication differs from the address of record. While a courtesy copy of this notice is being mailed to the address noted on this communication, petitioner is reminded that a "fee address" and/or "customer number" form should be submitted to the Maintenance Fee Division, if petitioner desires to receive any correspondence which may be mailed regarding maintenance fees for the above-identified patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MR. ALEXANDER ZINCHUK
ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Zvi Bleier	:	
Application No. 11/674,315	:	DECISION ON PETITION
Filed: February 13, 2007	:	
Attorney Docket No. 148/16	:	

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 13, 2010.

The request is **DISMISSED**.

A review of the file record indicates that Gibson & Dernier LLP was revoked by the assignee of record. A new Power of Attorney was filed on December 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will be directed to the current correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KAPLAN GILMAN & PERGAMENT LLP
1480 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

MAILED

JAN 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Zvi Bleier	:	
Application No. 11/674,315	:	DECISION ON PETITION
Filed: February 13, 2007	:	
Attorney Docket No. 148/16	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 20, 2008. A Notice of Abandonment was mailed March 25, 2009.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 2872 for appropriate action by the Examiner in the normal course of business on the reply received December 17, 2010.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ZVI BLEIER
PLX, INC.
40 WEST JEFRYN BOULEVARD
DEER PARK, NY 11729

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEC LABORATORIES AMERICA, INC.
4 INDEPENDENCE WAY
SUITE 200
PRINCETON NJ 08540

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Mohammad A. Khojastepour et al. :
Application No. 11/674,330 : DECISION ON PETITION
Filed: February 13, 2007 :
Attorney Docket No. **NL-05-055** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 20010, 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 12, 2010, as required by the Notice of Allowance and Fee(s) Due, 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 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been unintentionally delayed.

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

The 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 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

cc: **JEFFERY J. BROSEMER**
BROSEMER, KOLEFAS & ASSOCIATES, LLC
ONE BETHANY ROAD
HAZLET NJ 07733

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PANDUIT CORP.
LEGAL DEPARTMENT
6200 W. 175TH STREET
TINLEY PARK, IL 60477

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of
Jack E. CAVENEY, et *al.*
Application No. 11/674,359
Filed: February 13, 2007
Attorney Docket No. **LCB544**

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition, filed May 15, 2009, 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 March 30, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 30, 2008.

Petitioner asserts that the Notice dated December 30, 2008 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'statement.

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

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

This application is being referred to the Technology Center AU 2839 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of December 30, 2008. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Any questions concerning the examination or status of the application should be directed to the Technology Center in charge of the application.

/ Thurman K. Page /
Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/18/10

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11674385 Patent No.: 7629376

CofC mailroom date:
12/02/10

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

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: The third correction: "In column 16, line 33, delete "R1" and insert - - R2 - -, therefor."

Pertains to the second R1 in that line.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Joseph McKane Art Unit 1626

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OGILVY RENAULT LLP
1, Place Ville Marie
SUITE 2500
MONTREAL QC H3B 1R1 CA CANADA

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Olga Ornatsky	:	
Application No. 11/674,455	:	DECISION ON PETITION
Filed: February 13, 2007	:	
Attorney Docket No. 55306314-9US	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2010 and August 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, October 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 1, 2009. A Notice of Abandonment was mailed on July 8, 2010.

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

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

This application is being referred to Technology Center AU 1657 for appropriate action by the Examiner in the normal course of business on the RCE received April 30, 2010 and the required amendment filed August 23, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of Hye-Young Ryu, et al. Application No. 11/674,457 Filed: February 13, 2007 Attorney Docket No. 8071-70 DIV(OPP062738US)	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, January 7, 2011,to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 17, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2895 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

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

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United States Patent and Trademark Office
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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 7TH AVENUE
14TH FLOOR
NEW YORK, NY 10018

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Marios A. Kagarlis, et al.	:	
Application No. 11/674,467	:	ON PETITION
Filed: February 13, 2007	:	
Attorney Docket No.: 874.1007	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a non-final Office action mailed December 8, 2009. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 8, 2010. A Notice of Abandonment was mailed on August 5, 2010. On August 11, 2010, the present petition was filed, wherein petitioner indicate the proposed reply is the filing of a continuation application. The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuing application.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with the continuing application. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/806,393, filed August 11, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey Egnal, Rodney Feldman	:	
Bobby Gintz, Kyungnam Kim	:	DECISION ACCORDING STATUS
Robert Palmer and Bennett Wilburn	:	UNDER 37 C.F.R. § 1.47(a)
Application No. 11/674,561	:	
Filed: February 13, 2007	:	
Attorney Docket No. 10760/390	:	

This is a decision on the renewed REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. §1.47 filed August 24, 2010.

The petition under 1.47(a) is **GRANTED**.

The above-identified application was filed on February 13, 2007. A declaration executed solely by joint inventor Egnal, without an accompanying petition under 37 CFR 1.47(a) was initially filed in this application. In response to the "Notice to File Missing Parts of Application" mailed March 8, 2007 and in response to decisions refusing status under 37 CFR 1.47(a) mailed March 28, 2008, October 24, 2008, and October 21, 2009; applicants filed an initial petition on October 9, 2007, and renewed petitions on May 28, 2008, and December 24, 2008. Applicants initially asserted that status under § 1.47(a) is proper because inventors Gintz and Palmer have represented in correspondence that they are properly named as inventors of the subject matter of the application, but refuse to sign a

declaration without additional compensation. The petitions were dismissed for failure to submit adequate proof of the unavailability of the non-signing inventors and for repeated deficiencies in the declarations.

On prior renewed petition filed December 22, 2009, it was concluded that the petition as filed on December 24, 2008 did include acceptable proof of the unavailability of inventors Gintz, Palmer, Feldman and Kim to join in the application within the meaning of 37 CFR 1.47. However, it was determined that the declarations executed by inventor Egnal on behalf of himself and on behalf of non-signing inventors Gintz, Palmer, Feldman and Kim filed December 22, 2009; and the declaration executed by inventor Wilburn on behalf of himself and on behalf of non-signing inventors Gintz, Palmer, Feldman and Kim filed December 24, 2008, are unacceptable. The declarations identified inventor Gintz as "Robert Gintz" whereas a previous partially-executed declaration filed in the Office identified him as "Bobby Gintz."

On instant second renewed petition, applicants have filed acceptable declarations (identifying inventor Gintz as "Bobby Gintz) executed by inventors Egnal and Wilburn on behalf of themselves and on behalf of non-signing inventors Gintz, Palmer, Feldman and Kim.

All requirements of 37 CFR 1.47(a) have now been met.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MR. ROBERT PALMER, JR.
3315 Franklin Creek Lane
Knoxville, TN 37931

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey Egnal, Rodney Feldman	:	
Bobby Gintz, Kyungnam Kim	:	
Robert Palmer and Bennett Wilburn	:	LETTER
Application No. 11/674,561	:	
Filed: February 13, 2007	:	
Attorney Docket No. 10760/390	:	

Dear Mr. Palmer:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be

directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MR. KYUNGNAM KIM
2480 Mahogany Tree Lane
Herndon VA 20171

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey Egnal, Rodney Feldman	:	
Bobby Gintz, Kyungnam Kim	:	
Robert Palmer and Bennett Wilburn	:	LETTER
Application No. 11/674,561	:	
Filed: February 13, 2007	:	
Attorney Docket No. 10760/390	:	

Dear Mr. Kim:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER LLP
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WASHINGTON, DC 20001-4413

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MR. RODNEY FELDMAN
3218 Winder Sun Terrace
Herndon VA 20171

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey Egnal, Rodney Feldman	:	
Bobby Gintz, Kyungnam Kim	:	
Robert Palmer and Bennett Wilburn	:	LETTER
Application No. 11/674,561	:	
Filed: February 13, 2007	:	
Attorney Docket No. 10760/390	:	

Dear Mr. Feldman:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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

MR. BOBBY GINTZ
720 GRACEWOOD WAY
KNOXVILLE TN 37934

MAILED
SEP 30 2010
OFFICE OF PETITIONS

In re Application of	:	
Geoffrey Egnal, Rodney Feldman	:	
Bobby Gintz, Kyungnam Kim	:	
Robert Palmer and Bennett Wilburn	:	LETTER
Application No. 11/674,561	:	
Filed: February 13, 2007	:	
Attorney Docket No. 10760/390	:	

Dear Mr. Gintz:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be

directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER LLP
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WASHINGTON, DC 20001-4413

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MEDTRONIC, INC.
710 Medtronic Parkway NE
Minneapolis, MN 55432-9924

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Eunsung Park, et al.	:	DECISION ON PETITION
Application No. 11/674,607	:	TO WITHDRAW
Filed: February 13, 2007	:	FROM RECORD
Attorney Docket No. 52006-00013	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed December 6, 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).

Also all three certification boxes has not been checked. Boxes 2 and 3 were left unchecked.

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

cc: **MEDTRONIC VASCULAR, INC.**
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

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United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Venkatesh Krishnan, et al.	:	
Application No. 11/674,745	:	DECISION GRANTING PETITION
Filed: February 14, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 061677	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 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 February 16, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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NOV 22 2010

OFFICE OF PETITIONS

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

In re Application of
Cheng, et al.
Application No. 11/674,820
Filed: February 14, 2007
Atty. Dkt. No.: TI-61958

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.137(b), filed September 14, 2010.

The petition is **GRANTED**.

The application became abandoned May 5, 2010 for failure to timely submit a proper reply to the non-final Office action mailed February 4, 2010. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was filed. Notice of Abandonment was mailed September 17, 2010.

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

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

This application is being forwarded to Group Art Unit 2838 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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AUG 02 2010

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of
David J. Grainger
Application No. 11/674,859
Filed: February 14, 2007
Attorney Docket No. 1649.001US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 25, 2010.

The request is **APPROVED**.

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

The request was signed by Janet E. Embretson on behalf of all attorneys of record who are associated with customer No. 21186. All attorneys/agents associated with the Customer Number 21186 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actins at the present time.

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

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

cc: DAVID J. GRAINGER
TCP INNOVATIONS LIMITED
9 ST. JOHN'S STREET
DUXFORD CAMBRIDGE CB2 4RA
UNITED KINGDOM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/674,859	02/14/2007	David J. Grainger	1649.001US1

CONFIRMATION NO. 5240

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000042853025

Date Mailed: 08/02/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2010.

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

/amwise/

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

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ARENT FOX, LLP AND CARE FUSION
1050 CONNECTICUT AVENUE, NW
SUITE 400
WASHINGTON, DC 20036

MAILED

SEP 28 2010

OFFICE OF PETITIONS

In re Application of
Jesus Flores, et al.
Application No. 11/674,899
Filed: February 14, 2007
Attorney Docket No. 031528-00203

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before June 24, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 24, 2010. 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 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 approved by the USPTO draftsperson.

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
www.uspto.gov

Sheridan Ross, PC
1560 Broadway
Suite 1200
Denver, CO 80202

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OCT 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Christopher Heiss	:	
Application No. 11/674,983	:	DECISION ON PETITION
Filed: February 14, 2007	:	TO WITHDRAW
Attorney Docket No. 50487-00010	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 8, 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 Robert D. Traver and all attorneys/agents associated with customer number 22442 has been revoked by the inventor of the patent application on September 21, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Marsh, Fischmann & Breyfogle, LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

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SpryIP, LLC IFX
5009 163rd PL SE
Bellevue, WA 98006

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Lewis	:	
Application No. 11/675,002	:	DECISION ON PETITION
Filed: February 14, 2007	:	TO WITHDRAW
Attorney Docket No. IFXAG0110US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 26, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Bradley A. Forrest 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 June 23, 2010 that requires a reply from the applicant.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Infineon Technologies AG**
Intellectual Property
Infineon Technologies AG
Am Campeon 1-12
Neubiberg, 85579
Germany

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/675,002	02/14/2007	Michael Lewis	IFXAG0110US

CONFIRMATION NO. 5480

POWER OF ATTORNEY NOTICE

67998
SpryIP, LLC IFX
5009 163rd PL SE
Bellevue, WA 98006

OC000000043369133

Date Mailed: 09/07/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/26/2010.

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

/tsjohnson/

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

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SEP 22 2011
OFFICE OF PETITIONS

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

In re Patent No.7,983,897	:	
Chin, et al.	:	DECISION FOR REQUEST
Issue Date: July 19, 2011	:	FOR RECONSIDERATION
Application No. 11/675,034	:	OF PATENT TERM
Filed: February 14, 2007	:	ADJUSTMENT and NOTICE
Attorney Docket No. 16113-0421001	:	OF INTENT TO ISSUE
	:	CERTIFICATE OF
	:	CORRECTION

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 nine hundred and seventy-four(974) days, to one thousand, eighty-six(1,086) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **nine hundred and sixty (960)** is **GRANTED to the extent indicated herein**.

The instant petition was filed September 19, 2011. Patentees state, in pertinent part:

> 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 February 10, 2011. 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 16, 2011, thereby closing examination of the application on that date. Thus, no continued

examination took place during the 126 day period from March 16, 2011 (the mailing date of the Notice of Allowance) until July 19, 2011(the date the patent was issued). Accordingly, 126 days of B Delay should have been included in addition to the 360 days accorded by the Director for a total B Delay of 486 days.

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.

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

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

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

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

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

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

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of 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, a request for continued examination was filed on February 10, 2011, 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 February 10, 2011, and ending on July 19, 2011, is not included in calculating Office delay. The "B" delay period is 360 days, accordingly.

As noted by patentees, on February 24, 2011, patentees submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) after filing a reply to the final Office action on February 10, 2011. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed February 24, 2011, reveals that patentees did not include a statement under 37 CFR 1.704(d).[4] Thus, patentees failed to

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[4] 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

engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 14 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, February 11, 2011, and ending on the date that the IDS was filed, February 24, 2011. Accordingly, a period of reduction of 14 days is being entered.

Accordingly, the revised patent term adjustment is 960 days (716 days "A" delay + 360 days "B" delay - 45 days of overlap - 71 days of applicant delay.)

The petition fee of $200.00 required by 37 CFR 1.18 was received on September 19, 2011.

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and sixty (960)** days.

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thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

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 : 7,983,897 B2

DATED : Jul. 19, 2011

INVENTOR(S) : Chin, 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 (974) days

Delete the phrase "by 974 days" and insert – by 960 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No.7,983,897	:	
Chin, et al.	:	DECISION FOR REQUEST
Issue Date: July 19, 2011	:	FOR RECONSIDERATION
Application No. 11/675,034	:	OF PATENT TERM
Filed: February 14, 2007	:	ADJUSTMENT
Attorney Docket No.16113-0421001	:	

This is a decision on the "Response to Decision on Request for Reconsideration of Patent Term Adjustment", filed October 24, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from nine hundred and sixty (960) days, to one thousand, eighty-six (1,086) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED**.

BACKGROUND

On July 19, 2011, the subject application matured into U.S. patent No. 7,983,897, with a revised patent term adjustment of nine hundred and seventy-four (974) days. This revised determination included entry of an additional period of adjustment of three hundred and sixty (360) days for the Office taking in excess of three years to issue the patent.

On September 19, 2011, a petition under 37 CFR 1.705(d) was filed requesting that patent term adjustment be reflected as one thousand, eighty-six (1,086) days.

By decision mailed September 22, 2011, the request for reconsideration was granted only to the extent that the patent term adjustment was reduced by 14 days pursuant to 37 CFR 1.704(c)(8). The revised patent term adjustment was corrected to nine hundred and sixty (960) days.

On October 24, 2011, this request for reconsideration of the decision was filed.

By the instant petition, patentees again dispute the calculation of the "B" delay period of the patent term adjustment. Specifically, patentees' state:

> Patentees submit that B Delay accumulated for a total of 520 days, beginning on February 15, 2010 (the day after the date that is three years after the date on which the application was filed), and ending July 19, 2011 (the date the patent was issued). The Office has excluded from B Delay the number of days corresponding to the period beginning on February 10, 2011 (the date on which a Request for Continued Examination was filed) and ending on July 19, 2011 (the date the patent was issued). However, this entire period should not be excluded from B delay because it does not correspond in its entirety to continued examination. The Examiner's mailing of the Notice of Allowance Action on March 16, 2011, closed examination of the application on that date. Section 154(b)(1)(B)(i) of Title 35 excludes from B Delay "time consumed by continued examination of the application. The statute does not provide for exclusion from B Delay of time from the mailing of a Notice of Allowance until issuance (a period during which continued examination did not occur).

Excerpt taken from "Response to Decision on Request for Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction", filed October 24, 2011, pgs. 2-3.

STATUTE AND REGULATION

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

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to

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

issue a patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[2]:

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[2] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[3]:

37 CFR 1.703(f) provides that:

The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods

[3] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

Patentees' argument has again been considered, but is not persuasive. The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[4]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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[4] 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.

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)[5]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the

propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance.

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

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

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[6] permit the filing of a request for continued examination under

[6] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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 10, 2011, 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 February 10, 2011, 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 960 days is correct.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied.

The Office acknowledges that patentees previously submitted the $200 fee set forth in §1.18(e) on application for patent term adjustment filed May 9, 2011. As this request pertains only to the over 3-year delay issue raised in the application for patent term adjustment, no additional fees are required. Deposit account 06-1050 will be refunded $200.00, accordingly.

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 **nine hundred and sixty (960)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin. Petitions Attorney, (571) 272-3222.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,983,897 B2

DATED : Jul. 19, 2011

INVENTOR(S) : Chin, 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 (974) days

Delete the phrase "by 974 days" and insert – by 960 days--

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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

MAILED

AUG 24 2010

OFFICE OF PETITIONS

In re Patent No. 7,689,481	:	
Seagle, et al.	:	DECISION DISMISSING
Application No. 11/675,049	:	REQUEST FOR
Issue Date: March 30, 2010	:	RECONSIDERATION OF
Filed: February 14, 2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
ADEX-01005US1	:	

This is in response to the "Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b)" filed June 1, 2010, which is properly treated under 37 CFR 1.705(b). Patentees requests that the determination of patent term adjustment be corrected from fourteen (14) days to thirty-five (35) 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 thirty-five (34) days is **GRANTED TO THE EXENT INDICTED HEREIN**[1].

[1] It is noted that patentees assert that only 99 days of reduction to the patent term adjustment should be entered for the filing of the amendment under 37 CFR 1.312, however, the period of reduction to the patent term adjustment under 37 CFR 1.704(c)(10) begins on, and includes, the date the amendment under 37 CFR 1.312 was filed and ends on, and includes, the mailing date of the response to the amendment under 37 CFR 1.312. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.
Thus, in this instance, the period of reduction to the patent term adjustment is 100 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 is in receipt of $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 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 **thirty-four (34) 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 : 7,689,481 B2

DATED : Mar. 30, 2010

INVENTOR(S) : Seagle 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 (14) days

Delete the phrase "by 14 days" and insert – by 34 days--

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Commissioner for Patents
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Alexandria, VA 22313-1450
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DEC 03 2010

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Budianu, et al.	:	
Application No. 11/675,055	:	DECISION ON PETITION
Filed: February 14, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 061741	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 5, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (3). The rule at 37 CFR § 1.78(a)(3) 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. No such statement has been provided. Further, the amendment concerning priority data referenced in the petition does not appear to have been submitted.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3), including the required statement of unintentional delay is required.

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

By mail: Mail Stop PETITIONS

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

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

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

Any questions concerning this matter may be directed to the Petitions Attorney Alesia M. Brown at (571) 272-3205.

Chris Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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REENA KUYPER, ESQ.
BYARD NILSSON, ESQ.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES CA 90069

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of	:	
KATZ	:	
Application No. 11/675,080	:	ON PETITION
Filed: February 14, 2007	:	
Attorney Docket No. 6046-101N17_0230-4008	:	

This is a decision on the petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and alternatively, the petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application both petitions were filed July 7, 2011.

The petition under 37 C.F.R. 1.181 to withdraw holding of abandonment is **DISMISSED**, and the petition to revive under the provisions of 37 CFR 1.137(b) for unintentional abandonment is **DISMISSED.**

This application was held abandoned for failure to reply to the non final Office action mailed December 15, 2010, which set a **three (3) month** shortened statutory period for reply. A Notice of Abandonment was mailed on June 24, 2011.

Petition to Withdraw the Holding of Abandonment

Petitioner requests reconsideration and withdrawal of the holding of improper abandonment for failure to timely file a proper reply. Petitioner states a response to the Office Action was mailed to the U.S. Patent & Trademark Office (USPTO) on June 15, 2011. With the petition filed July 7, 2011, petitioner has enclosed a copy of the response and all the accompanying papers including a stamped return post card which acknowledges receipt in the USPTO.

A review of USPTO records indicate the reply was received in the Office on June 27, 2011. Since the documents received June 27, 2011, did not include evidence that the reply required by the Office action dated December 15, 2010, was received in the Office prior to the maximum reply due date, the request to withdraw holding of abandonment cannot be granted.

Petition to Revive Unintentional Delay

Petitioner requests that the petition filed July 7, 2011, alternatively be treated as a petition to revive unintentional abandonment under the provisions of 37 CFR 1.137(b). 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(b) 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.

In view of the above, the Office cannot determine if the entire delay was unintentional. Accordingly, the petition to revive under 37 CFR 1.137(b), cannot be granted at this time.

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

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

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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REENA KUYPER, ESQ.
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9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES CA 90069

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SEP 07 2011
OFFICE OF PETITIONS

In re Application of	:	
KATZ	:	
Application No. 11/675,080	:	DECISION ON PETITION
Filed: February 14, 2007	:	
Attorney Docket No. 6046-101N17_0230-4008	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 15, 2010, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 16, 2011.

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

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

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 on June 27, 2011, was subsequent to the

maximum extendable period for reply, this fee is unnecessary and will be credited to Deposit Account No. 50-1636.

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

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-25-11

TO SPE OF : ART UNIT 2886

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/675155 Patent No.: 7764371

CofC mailroom date: 01-10-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

Angela Green

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2886
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,629,578 B2
Serial No. : 11/675,260
Inventor(s) : Frosien, et. al.
Issued : December 8, 2009
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.

Column 12, lines 28-30 is printed in accordance with the record.

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

Further correspondence concerning this matter should be filed and directed to decisions and Certificates of Correction Branch. Any response must be filed within a four week period along with fee of $100.00.

Eva James
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1583 or 1580

Patterson & Sheridan
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056-6582

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MALDJIAN LAW GROUP LLC
36 BINGHAM AVENUE
RUMSON NJ 07760

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Application of
Aksha Adhikari et al.
Application No. 11/675,352
Filed: February 15, 2007
Attorney Docket No. 506164-US-NP
(ABG) (A086)

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b)" filed September 21, 2011. Applicants request that Applicants be granted a minimum patent term adjustment of 550 days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is FIVE HUNDRED FIFTY (550) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 22, 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 494 days. On September 21, 2011, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 56 days associated with a Terminal Disclaimer filed on June 14, 2011. Applicants maintain that filing of a Terminal disclaimer after a Notice of Appeal is not considered a supplemental response under 37 C.F.R. 1.704 (c)(8); and therefore Applicants should not be charged for any delay."

The calculation of patent term adjustment has been reviewed and it is determined that no reduction is warranted for the filing of the Terminal Disclaimer on June 14, 2011. This reduction was incorrectly entered pursuant to 37 CFR 1.704(c)(8) for applicants having filed a Terminal Disclaimer after filing a Notice of Appeal on April 19, 2011.

[1] PALM records indicate that the Issue Fee was received on September 24, 2011.

Pursuant to 37 CFR 1.704(c)(8),

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, **after a reply has been filed**, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed; **(Emphasis added)**

is a circumstance that constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application.

The filing of the Terminal Disclaimer in this instance is not a failure to engage in reasonable efforts to conclude examination. The reduction of 56 days is not warranted and is removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is FIVE HUNDRED FIFTY (550) days.

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

The application is being 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).

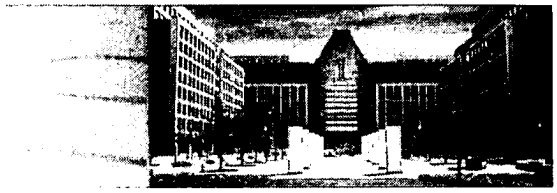
Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

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*: 11675352 [Search] Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11675352

Application Filing Date	02/15/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	662
A Delays	662	PTO Manual Adjustment	56
B Delays	0	Applicant Delay (APPL)	168
C Delays	0	Total PTA (days)	550

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
123	09/30/2011		P028	Adjustment of PTA Calculation by PTO	56		0
113	07/22/2011	04/19/2011	MN/=.	Mail Notice of Allowance			80
112	07/19/2011		OAR	Office Action Review			0
111	07/19/2011		OAR	Office Action Review			0
110	07/19/2011		IREV	Issue Revision Completed			0
109	07/19/2011		DVER	Document Verification			0
108	07/19/2011		N/=.	Notice of Allowance Data Verification Completed			0
107	07/18/2011		EX.R	Reasons for Allowance			0
106	07/18/2011		CNTA	Allowability Notice			0
105	07/13/2011		FWDX	Date Forwarded to Examiner			0
103	07/11/2011		P574	Paralegal TD Accepted			0
102	07/06/2011		DIST	Terminal Disclaimer Filed			0
101	06/30/2011		P575	Paralegal TD Not accepted			0
96	06/23/2011		FWDX	Date Forwarded to Examiner			0
95	06/20/2011		AP/A	Amendment/Argument after Notice of Appeal			0
92	06/16/2011		IDSC	Information Disclosure Statement considered			0
91	06/16/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
104	06/14/2011		AP/A	Amendment/Argument after Notice of Appeal			0
100	06/14/2011	04/19/2011	DIST	Terminal Disclaimer Filed		56	80
90	06/03/2011		LET.	Miscellaneous Incoming Letter			0
88	06/02/2011		EML_NTR	Email Notification			0
87	06/02/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
86	05/24/2011		OAR	Office Action Review			0
85	05/24/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
94	05/23/2011		IDSC	Information Disclosure Statement considered			0
89	05/23/2011		EIDS.	Electronic Information Disclosure Statement			0
84	05/23/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
83	05/18/2011		MAPCP	Mail Appeals conf. Proceed to BPAI			0
82	05/17/2011		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
81	04/19/2011		AP.C	Request for Pre-Appeal Conference Filed			0
80	04/19/2011		N/AP	Notice of Appeal Filed			0
93	04/05/2011		IDSC	Information Disclosure Statement considered			0
79	04/05/2011		EIDS.	Electronic Information Disclosure Statement			0
78	04/05/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
77	03/16/2011		ELC_RVW	Electronic Review			0
76	03/16/2011		EML_NTF	Email Notification			0
75	03/16/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
74	03/13/2011		CTFR	Final Rejection			0
72	03/06/2011		FWDX	Date Forwarded to Examiner			0
71	03/03/2011		A...	Response after Non-Final Action			0
73	02/25/2011		IDSC	Information Disclosure Statement considered			0
70	02/25/2011		EIDS.	Electronic Information Disclosure Statement			0
69	02/25/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
68	02/16/2011		ELC_RVW	Electronic Review			0
67	02/16/2011		EML_NTF	Email Notification			0
66	02/16/2011		MCTNF	Mail Non-Final Rejection			0
65	02/11/2011		CTNF	Non-Final Rejection			0
64	02/01/2011		FWDX	Date Forwarded to Examiner			0
61	02/01/2011		ABN9	Disposal for a RCE / CPA / R129			0
63	01/21/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
62	01/21/2011		RCEX	Request for Continued Examination (RCE)			0
60	01/21/2011		BRCE	Workflow - Request for RCE - Begin			0
59	11/29/2010		ELC_RVW	Electronic Review			0
58	11/29/2010		EML_NTF	Email Notification			0
57	11/29/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0

56	11/22/2010		CTFR	Final Rejection			0
55	11/17/2010		FWDX	Date Forwarded to Examiner			0
54	11/15/2010		A...	Response after Non-Final Action			0
53	08/18/2010		ELC_RVW	Electronic Review			0
52	08/18/2010		EML_NTF	Email Notification			0
51	08/18/2010	04/16/2010	MCTNF	Mail Non-Final Rejection	124		36
50	08/14/2010		CTNF	Non-Final Rejection			0
46	07/07/2010		MAPCR	Mail Appeals conf. Reopen Prosec.			0
47	07/06/2010		FWDX	Date Forwarded to Examiner			0
45	07/02/2010		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
48	04/07/2010		IDSC	Information Disclosure Statement considered			0
43	04/07/2010		RCAP	Reference capture on IDS			0
42	04/07/2010	12/16/2009	EIDS.	Electronic Information Disclosure Statement		112	36
41	04/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
40	03/30/2010		DOCK	Case Docketed to Examiner in GAU			0
49	02/22/2010		IDSC	Information Disclosure Statement considered			0
39	02/22/2010		EIDS.	Electronic Information Disclosure Statement			0
38	02/22/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
37	02/02/2010		DOCK	Case Docketed to Examiner in GAU			0
44	12/16/2009		AP.C	Request for Pre-Appeal Conference Filed			0
36	12/16/2009		N/AP	Notice of Appeal Filed			0
35	12/02/2009		ELC_RVW	Electronic Review			0
34	12/02/2009		EML_NTF	Email Notification			0
33	12/02/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
32	11/24/2009		CTFR	Final Rejection			0
31	10/28/2009		FWDX	Date Forwarded to Examiner			0
30	10/15/2009		A...	Response after Non-Final Action			0
29	10/05/2009		ELC_RVW	Electronic Review			0
28	10/05/2009		EML_NTF	Email Notification			0
27	10/05/2009	04/15/2008	MCTNF	Mail Non-Final Rejection	538		0.5
26	09/30/2009		CTNF	Non-Final Rejection			0
18	07/09/2009		DOCK	Case Docketed to Examiner in GAU			0
17	10/05/2008		DOCK	Case Docketed to Examiner in GAU			0
16	08/22/2008		EML_NTR	Email Notification			0
15	08/21/2008		PG-ISSUE	PG-Pub Issue Notification			0
14	02/27/2008		DOCK	Case Docketed to Examiner in GAU			0
13	09/19/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
11	08/01/2007		OIPE	Application Dispatched from OIPE			0
10	05/23/2007		PGPC	Sent to Classification Contractor			0
9	05/17/2007		L130	Receipt of all Acknowledgement Letters			0
8	05/17/2007		L197	Receipt of Acknowledgment Letter			0
7	03/08/2007		PGPW	Waiting LR clearance			0
6	03/08/2007		COMP	Application Is Now Complete			0
5	02/28/2007		ML196	Agency Referral Letter Mailed			0
4	02/27/2007		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated			0
3	02/20/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
19	02/15/2007		IDSC	Information Disclosure Statement considered			0
12	02/15/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
2	02/15/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	02/15/2007		IEXX	Initial Exam Team nn			0
0.5	02/15/2007		EFILE	Filing date			0

Export to: Excel

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	11675424
Filing Date	15-Feb-2007
First Named Inventor	Rida Hamza
Art Unit	2624
Examiner Name	BRIAN LE
Attorney Docket Number	H0014039-1100.1437101
Title	STANDOFF IRIS RECOGNITION SYSTEM

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

- ☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ☐ Applicant(s) status remains as SMALL ENTITY.
- ☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

○ A joint inventor; all of whom are signing this e-petition

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/John G. Shudy, Jr./
Name	John G. Shudy, Jr.
Registration Number	31214

UNITED STATES 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 18,2011

In re Application of :

Rida Hamza

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11675424

Filed : 15-Feb-2007

Attorney Docket No : H0014039-1100.1437101

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 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 in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

This application file is being referred to Technology Center AU 2624 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Zvi Mowshowitz	:	
Application No. 11/675,496	:	DECISION ON PETITION
Filed: February 15, 2007	:	
Attorney Docket No. 15301/1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 31, 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 1, 2010. The Notice of Abandonment was mailed 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 an amendment, (2) the petition fee of $810, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 3693 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:
SHIFRIN, Lazar A.	:
Application No. 11/675,517	: DECISION ON PETITION
Filed: February 15, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 023P2842div	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 27, 2011 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petitions are **GRANTED**.

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

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

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

The rule at 37 CFR § 1.78(a)(3) 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

Any inquiries concerning this decision may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3777 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

David Bucci
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
11/675,517	02/15/2007	3777	425	023P2842div	14	3

CONFIRMATION NO. 6439

CORRECTED FILING RECEIPT

23504
WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

OC000000047814942

Date Mailed: 05/23/2011

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

Applicant(s)
Lazar A. Shifrin, San Jose, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant
This application is a DIV of 10/886,438 07/06/2004 PAT 7,889,787
which claims benefit of 60/492,588 08/04/2003

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

If Required, Foreign Filing License Granted: 03/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/675,517**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

ULTRASOUND TRANSMIT BEAMFORMER INTEGRATED CIRCUIT AND METHOD

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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

MAILED

JUL 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Bhat et al.	:	
Application No. 11/675,542	:	DECISION ON PETITION
Filed: February 15, 2007		TO WITHDRAW FROM RECORD
Attorney Docket No. 026705-000510US	:	
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 5, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Christopher L. Willink, on behalf of all attorneys/agents of record who are associated with Customer Number 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, there is an outstanding Office action mailed May 16, 2011 that requires a reply.

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Pavad Medical, Inc.
Attn: John F. Thompson, Esq.
826 Coal Creek Circle
Louisville, Colorado 80027

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JUL 06 2011
OFFICE OF PETITIONS

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

In re Application of	:	
Lines, et al.	:	
Application No. 11/675,576	:	DECISION ON PETITION
Filed: 15 February, 2007	:	
Attorney Docket No.	:	
050991.FRSCO.004CP1C1		

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 14 March, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant application was filed on 15 February, 2007. Office records reflect that the new claim was presented in an amendment on 14 March, 2011.

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

Application No. 11/675,576

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

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

This application is being forwarded to the examiner of Technology Center/AU 1789 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Director, Office of Petitions
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/675,576	02/15/2007	1789	961	FRSCO.004CP1C1	24	2

CONFIRMATION NO. 6539

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000048408615

Date Mailed: 06/24/2011

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)

Thomas Christian Lines, Hassel, LUXEMBOURG;
Mitsunori Ono, Lexington, MA;

Assignment For Published Patent Application

New Sun Nutrition LLC, a Delaware corporation

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This application is a CON of 10/692,178 10/23/2003 ABN
which claims benefit of 60/420,986 10/23/2002
and is a CIP of 10/302,544 11/22/2002 PAT 6,821,536

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: 03/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/675,576**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Composition for Enhancing Physical Performance

Preliminary Class

426

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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PERKINS COIE, LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of
Charles W. Spangler, et. al.
Application No. 11/675,577
Filed: February 15, 2007
Attorney Docket No. 578548001US1

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 April 4, 2011.

The request is **NOT APPROVED**.

The request was signed by Paul T. Parker on behalf of himself and all the attorneys/agents of record. However, the request cannot be approved because Paul T. Parker and the attorneys/agents do have not have power of attorney in this patent application, but has been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

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

Petitioner should note that the power of attorney filed on October 16, 2007, was not acceptable. While the power of attorney states that Rasiris, Inc. is the assignee of entire right title and interest, United States Patent and Trademark Office (USPTO) assignment records show that inventors Charles Spangler and Jean-Pierre Laurent assigned their rights to Rasiris, Inc. by assignment recorded on February 18, 2009; however, inventor Aleksander Rebane assigned rights to Montana State University by assignment recorded on April 27, 2009. Therefore, Rasiris, Inc. is not the assignee of entire, right, title and interest in the above-identified application.

Further, 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.

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.

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).

There is an Office action mailed on April 11, 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

[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.*

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Texas Instruments Incorporated
PO Box 655474
Mail Station 3999
Dallas TX 75265-5474

MAILED
DEC 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Khurram Waheed et al.	:	
Application No. 11/675,582	:	DECISION ON PETITION
Filed: February 15, 2007	:	
Attorney Docket No. 12411.0088; TI-61828	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 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 November 15, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 16, 2011. A Notice of Abandonment was mailed on May 23, 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 2618 for appropriate action by the Examiner in the normal course of business on the reply received November 18, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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NALCO COMPANY
1601 W. DIEHL ROAD
NAPERVILLE IL 60563-1198

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of

Enzien, et al.

Application No. 11/675,726

Filed: February 16, 2007

Attorney Docket No. **7966**

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed October 13, 2010. The final Office action set a shortened statutory period for reply of three months from its mailing date. A proper response was received, and the application became abandoned on April 14, 2011.

The Request for Continued Examination filed May 4, 2011, is noted.

The application file is being forwarded to Technology Center 1700, GAU 1773 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 24 2011

PCT LEGAL ADMINISTRATION

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

In re Application of PETER
US Patent No.: 7,815,610
Application No.: 11/675,743
Filing Date: 16 February 2007
Attorney Docket No.: 1926-00126
For: INJECTION APPARATUS

DECISION ON PETITION

UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 19 October 2010 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the international application identified in the concurrently filed "Certificate of Correction".

The petition is **DISMISSED**.

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

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

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

With respect to the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, applicant did not provide a proper reference in the form of an amendment to the first sentence(s) of the specification or supplemental Application Data Sheet. The Certificate of Correction filed 19 January 2010 is not a proper amendment to the specification of the application. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. The reference added to the specification 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 Manual of Patent Examining Procedure, (8th ed., Revision 7 (July 2008)), Section 201.11, Reference to Prior Application(s).

It is also noted that the document entitled "Certificate of Correction" is not in the proper form.

See MPEP 1485. Applicant is urged to submit the text of the correction on a special Certificate of Correction form, PTO/SB/44 (also referred to as Form PTO-1050), which can serve as the camera copy for use in direct offset printing of the Certificate of Correction.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (37 CFR 1.121) or supplemental application data sheet (37 CFR 1.76) is required.

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 24 2012

PCT LEGAL ADMINISTRATION

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

In re Application of PETER US Patent No.: 7,815,610 Application No.: 11/675,743 Filing Date: 16 February 2007 Attorney Docket No.: 1926-00126 For: INJECTION APPARATUS	DECISION GRANTING PETITION UNDER 37 CFR 1.78(a)(3) AND REQUEST FOR CERTIFICATE OF CORRECTION

This is a decision on Petitioner's "Renewed Petition under 37 CFR 1.78 to Accept A Supplemental Application Data as well as a Certificate of Correction Reflecting the Claim to Priority for US Patent No. 7,815,610", filed 10 November 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to international application PCT/GB2005/003201.

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 international 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 February 16, 2007. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a request for Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed international application after issuance of the application into a patent. *See* MPEP 1481, Rev. 7, July 2008, page 1400-92, second column.

As the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Any inquiries concerning this decision may be directed to Cynthia Kratz at (571) 272-3286.

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, PA
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

MAILED

SEP 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Mears, et al.	:	
Application No. 11/675,846	:	DECISION GRANTING PETITION
Filed: February 16, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 62650	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 14, 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 7, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2813 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.*

30 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of	:	
WONG, Kin Pun, et al.	:	
Application No.: 11/675,910	:	
Filing Date: 16 February 2007	:	DECISION
Att Docket No.: ECS-PT007	:	
For: METHOD AND SYSTEM FOR	:	
DETERMINING THE SOC OF A	:	
RECHARGEABLE BATTERY	:	

This is a decision on applicant's Petition Under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 04 August 2008. The balance of the petition fee will be charged to deposit account no. 22-0493, as authorized.

BACKGROUND

On 16 February 2007, applicant filed papers indicating only that the submission was a "utility".

On 04 February 2008, the Office mailed Filing Receipt indicating that the application has a filing date of 16 February 2007 and not listing any domestic priority data.

On 27 March 2008, applicant filed a request for a corrected filing receipt, requesting, *inter alia*, that the Office identify the application as a national phase entry of PCT/SG2005/000283.

On 19 June 2008, the Office mailed Response to Request For Corrected Filing Receipt, informing applicant that the application was a filing under 37 CFR 111(a).

On 04 August 2008, applicant filed this petition requesting that the Office convert the above application to a national phase.

DISCUSSION

A review of the above-captioned application file indicates it is a utility application filed under 35 U.S.C. 111(a).

As indicated in MPEP 1893.03(a):

> [I]f applicant wishes the application to be >treated as a filing< under 35

> U.S.C. 111(a), applicant's originally filed application papers need indicate simply that the papers are for a new U.S. patent application. If, however, applicant is submitting papers for entry into the national stage of a PCT application ... applicant must so state. >Applicants seeking to enter the national stage are advised to use transmittal Form PTO-1390, as this form clearly indicates that the submission is under 35 U.S.C. 371.<

The Form PTO-1390 was not furnished, nor was a clear instruction to process the filing under 35 USC 371. Thus, the application is a filing under 35 U.S.C. 111(a) pursuant to 1077 OG 13.

U.S. Statutes and Regulations do not make specific provision for conversion of the application to a national phase and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. Applicants have not made such a showing.

Applicants ask for the Office to add a priority claim to the international application. Such an addition is made by way of a petition under 37 CFR 1.78, which applicants may wish to consider filing. A proper reference identifying this application as a continuation of the international application in either an application data sheet or a preliminary amendment, the statement of unintentional delay and the surcharge are required for a petition under 37 CFR 1.78.

CONCLUSION

Applicant's petition under 37 CFR 1.182 to convert this filing under 35 USC 111(a) to a filing under 35 USC 371 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.

This application is being forwarded to the Initial Processing Division of the Office of Patent Application Processing for continued processing.

/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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DEC 27 2010

PCT LEGAL ADMINISTRATION

VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of	:	
WONG, Kin Pun, et al.	:	
Application No.: 11/675,910	:	
Filing Date: 16 February 2007	:	DECISION
Att Docket No.: ECS-PT007	:	
For: METHOD AND SYSTEM FOR	:	
DETERMINING THE SOC OF A	:	
RECHARGEABLE BATTERY	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 06 October 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 USC 365(c) and 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that a 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.

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

This matter is being referred to Office of Patent Publication for processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Atkins	:	
Application No. 11/675,918	:	DECISION
Filed: 16 February, 2007	:	
Attorney Docket No. 8684/91002	:	

This is a decision on the petition filed on 22 January, 2010, treated akin to a petition pursuant to 37 C.F.R. §1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (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. (*See* 37 C.F.R. §1.137(f).)

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Failure to Notice

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(f) are the petition and fee therefor, a reply in the form of the Notice of subsequent foreign/international filing (in an eighteen-month publication country) and the date thereof, and a proper statement of unintentional delay under the regulation.

BACKGROUND

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on *5 February, 2008*. However, the Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c), Petitioner failed to timely notify the Office of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(b) to accept an unintentionally delayed notification to the Office of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 C.F.R. §1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. §122(b)(2)(B)(iii) 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 *11 November, 2010.*

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

As to Allegations of
Failure to Notice

It appears that the requirements under 37 C.F.R. §1.137(f) have been satisfied.

[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).

Application No. 11/675,918

CONCLUSION

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

This application is being released to Technology Center/AU 2821 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the decision has been acknowledged by the Technology Center/AU. It is noted that all inquiries with regard to substantive examination need be directed to the Technology Center/AU where 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[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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/675,918	02/16/2007	Barry L. Atkins	8684/91002

CONFIRMATION NO. 7154

22242
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

NONPUBLICATION RESCISSION LETTER

OC000000042910638

Date Mailed: 08/05/2010

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

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

The projected publication date is 11/11/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/jjgillon.jr/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
PIONEER HI-BRED INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Application of	:	
Kincs et al.	:	
Application No. 11/675,959	:	DECISION ON PETITION
Filed: February 16, 2007		TO WITHDRAW FROM RECORD
Attorney Docket No. 035718/391916	:	
	:	

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 12, 2010.

The request is **APPROVED**.

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

The request was signed by Kelly J. Williamson, on behalf of all attorneys of record who are associated with Customer Number 29122.

All attorneys/agents associated with the Customer Number 29122 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: E.I. du Pont de Nemours and Company
1007 Market Street
Wilmington, DE 19898

UNITED STATES PATENT AND TRADEMARK OFFICE

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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY, NJ 08855

MAILED
FEB 07 2012
OFFICE OF PETITIONS

In re Application of :
John J. Gatzemeyer, et al. :
Application No.: 11/676,050 : ON PETITION
Filed: February 16, 2007 :
Attorney Docket No.: 7993-00-TB :

This is a decision on the petition, filed February 6, 2012, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 1, 2012, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3723 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/676,077	02/16/2007	John F. Connors	20014-00001	7454

25231 7590 10/18/2010
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

EXAMINER
KIM, SUN U

ART UNIT	PAPER NUMBER
1777	

MAIL DATE	DELIVERY MODE
10/18/2010	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.

UNITED STATES 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: OCT 18 2010

In re application of	:	
Connors	:	DECISION ON
Serial No. 11/676,077	:	PETITION
Filed: February 16, 2007	:	
For: DIALYSIS APPARATUS AND A METHOD FOR ASSEMBLING A DIALYSIS APPARATUS		

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on September 30, 2010 to withdraw the Finality of the Office Action mailed May 28, 2010. Applicant filed a request for withdrawal of finality on July 20, 2010. The Examiner in an Advisory Action on September 23, 2010 refused to withdrawn the finality of the office action.

There was no statement of rejection in the first office action against claim 10 under 35 USC 103(a). Claims 8-9 and 19-20 were rejected under 35 USC 103(a) as being unpatentable over Periana et al. and claims 13-17 were rejected under 35 USC 103(a) as being unpatentable over Periana et al. The only specific reference made to claim 10 in the first Office Action was on page 4 of the Office Action; "regarding claim10, Periana et al teach.....". The Office Action Summary page listed claims 1-20 as rejected.

In response to the first office action, Applicant on March 8, amended claims 10, 18 and 20, cancelled claims 1-9, 11, 12 and 19 and added new claims 21-28. The second Office Action issued on May 28,2010 was made final and included a stated rejection of claim 10 under 35 USC 103(a). The Examiner also made reference that claim 10 was rejected in a previous office action.

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 first Office Action did not have a formal rejection against cliam10. The Amendments to claim10 after the first office action did not change the scope of the claim. Claim 10 was amended to place the claim in independent form. The second Office Action contained a rejection against claim 10 under 35 USC 103(a). It appears that the Examiner has introduced a new grounds of rejection against claim 10 that was not necessitated by Applicant's amendment.

DECISION

The petition is **GRANTED**.

The finality of the May 28, 2010 action is withdrawn. The period for response will continue run from the mail date of May 28, 2010.

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

Ross E. Breyfogle
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver CO 80237

Doc Code: PET.GREEN
Document Description: Petition for Green Tech Pilot

PTO/SB/420 (05-10)
Approved for use through 01/31/2011. OMB 0651-0062
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO MAKE SPECIAL UNDER THE GREEN TECHNOLOGY PILOT PROGRAM

Attorney Docket Number: 3245.012US1	Application Number (if known): 11/676,095	Filing date: February 16, 2007

First Named Inventor: Jean Patrice Rakotoniaina

Title: METHOD AND SYSTEM FOR REMOVING IMPURITIES FROM LOW-GRADE CRYSTALLINE SILICON WAFERS

APPLICANT HEREBY REQUESTS TO PARTICIPATE IN THE GREEN TECHNOLOGY PILOT PROGRAM FOR THE ABOVE-IDENTIFIED APPLICATION. See Instruction Sheet on page 2.

This petition must be timely filed electronically using the USPTO electronic filing system, EFS-Web.

1. By filing this petition:

   Applicant is requesting early publication: Applicant hereby requests early publication under 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d) accompanies this request.

2. By filing this petition: applicant is agreeing to make an election without traverse in a telephonic interview and elect an invention that meets the eligibility requirements set forth in the notice titled "Pilot Program for Green Technologies Including Greenhouse Gas Reduction," as modified by the notice titled "Elimination of Classification Requirement in the Green Technology Pilot Program," each of which was published in the Federal Register, if the Office determines that the claims are not obviously directed to a single invention.

3. This request is accompanied by statements of special status for the eligibility requirement.

4. The application contains no more than three (3) independent claims and twenty (20) total claims.

5. The application does not contain any multiple dependent claims.

6. Other attachments: Transmittal (1 pg); Communication (5 pgs.); Request for Early Publication (1 pg.)

Signature Nicholas P. Lanzatella	Date 8-13-2010
Name (Print/Typed) Nicholas P. Lanzatella	Registration Number 63,803

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 3 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 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **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.

S/N 11/676,095 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Jean Patrice Rakotoniaina et al.	Examiner: Thinh T. Nguyen
Serial No.:	11/676,095	Group Art Unit: 2818
Filed:	February 16, 2007	Docket: 3245.012US1
Title:	METHOD AND SYSTEM FOR REMOVING IMPURITIES FROM LOW-GRADE CRYSTALLINE SILICON WAFERS	

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to the Pilot Program for Green Technologies Including Greenhouse Gas Reduction, 74 Federal Register 64666 (Dec. 8, 2009), and the Elimination of Classification Requirement in the Green Technology Pilot Program, 75 Federal Register 28554 (May 21, 2010) Applicant submits the following:

(1) Applicant respectfully requests grant of special status because the invention materially contributes to development of renewable energy resources or energy conservation. It is believed that it is clear on its face that the invention contributes to the development of renewable energy resources or energy conservation, because the present invention relates to techniques for providing improved semiconductor solar cells using lower grade semiconductor material. Making silicon of the required high purity for solar cells is a problem that has become the single largest bottleneck to large-scale efficient and economical solar cell production. By allowing the production of solar cells from lower grade semiconductor material, this bottleneck is effectively circumvented and efficient lower cost solar cells can be manufactured.

Solar energy is included in a conventional definition of "renewable energy resources", see http://en.wikipedia.org/wiki/Renewable_energy. By adopting solar cells as a source of energy, energy is derived from solar energy rather than from other non-renewable energy resources, principally such as coal or petrochemical sources. By making solar cells more economically, they will cost less, and as a result more people will use them; therefore, the present invention can provide a way for society to use less non-renewable resources, the encouragement of which is clearly a principal objective of the Pilot Program.

The Pilot Program notice at page 64668, first column, first partial paragraph, lines 16-23, states that an Applicant for the program is not permitted to "enjoy the benefit of advanced

examination merely because some minor aspect of the claimed invention may be directed to (1) development of renewable energy or energy conservation...". Additionally, the Pilot Program notice at page 64668, first column, first partial paragraph, lines 9-15, states that when applying for the program, it is not allowed for the Applicant to "speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to (1) development of renewable energy or energy conservation...". However, it is not a minor aspect of the present invention that is directed to the development of renewable energy or energy conservation, nor is speculation as to an end-user's special application of the invention necessary. Attention is directed to the first sentence of the Summary, paragraph [0012] of the application as filed:

[0012] Techniques are here disclosed for providing improved semiconductor solar cells using low grade semiconductor material.

Additionally, see the first two paragraphs of the Detailed Description, paragraph [0024] of the application as filed, emphasis added:

> [0024] The method and system of the present disclosure permit removing impurities from low-grade crystalline silicon wafers for concentrating impurities and related complexes, in particular, transition metal clusters, existing throughout a semiconductor substrate. As a result of using the presently disclosed subject matter, an improvement in the properties of low-grade semiconductor materials, such as RMG [(refined metallurgical grade)] or UMG [(upgraded metallurgical grade)] silicon, occurs. *Such improvement allows use of refined MG (RMG) silicon, for example, in producing solar cells as may be used in solar power generation and related uses*.
> [0025] The method and system of the present disclosure, moreover, *particularly benefits the formation of semiconductor solar cells using RMG silicon or other non-electronic grade semiconductor materials. The present disclosure may find application in the economical manufacture of solar cells, allowing the formation of solar cells in greater quantities and in a greater number of fabrication facilities than has heretofore been possible*.

It is clear from the above quoted passages that a major aspect of the present invention is directed to the economical production of solar cells. Moreover, the most preferred embodiments, prominently featured not only throughout the entire application but also in the first paragraphs of the Summary and Detailed Description, are centered directly and unambiguously on the

production of solar cells. Thus, speculation as an end-user's special application of the invention is not necessary to conclude that the invention contributes materially to the development of renewable energy or energy conservation.

(2) The instant application is a non-reissue, non-provisional utility application filed under 35 U.S.C. 111(a). The application was filed on February 16, 2007 and was thus filed before the publication date of the above-identified notice.

(3) The application presently contains three or fewer independent claims and twenty or fewer total claims.

(4) The claims are believed to be directed to a single invention that materially enhances the quality of the environment, or that materially contributes to: (1) The discovery or development of renewable energy resources; or (2) the more efficient utilization and conservation of energy resources.

If the USPTO determines that the claims are directed to multiple inventions (e.g., in a restriction requirement), Applicant agrees to make an election without traverse in a telephonic interview, and elect an invention that meets the eligibility requirements in section II or III of the above-identified notice and is classified in one of the U.S. classifications listed in section VI of the above-identified notice.

(5) The petition to make special is filed electronically before December 8, 2010, using the USPTO electronic filing system, EFS–Web, and selecting the document description of ''Petition for Green Tech Pilot'' on the EFS–Web screen.

(6) The petition to make special is believed to be filed at least one day prior to the date that a first Office action (which may be an Office action containing only a restriction requirement) appears in the Patent Application Information Retrieval (PAIR) system. The present application is participating in the first action interview pilot program, a form PTOL-413FP pre-interview communication has issued, the interview has taken place, and Applicant has

submitted a summary of the interview. However, no restriction requirement appears in PAIR, and a first office action does not appear in PAIR.

(7) The petition to make special is accompanied by a request for early publication in compliance with 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d).

Accordingly, it is believed the application is in condition to be considered under the pilot program and Applicant respectfully requests that the present application be made special to enjoy expedited consideration.

CONCLUSION

Applicant believes that no fee is required with this communication. If necessary, please charge any additional fees or credit overpayment to Deposit Account 19-0743.

Respectfully submitted,

Jean Patrice Rakotoniaina et al.

By their Representatives,

SCHWEGMAN LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
612-373-6900

Date August 13th, 2010

By Nicholas P. Lanzatella
Nicholas P. Lanzatella
Reg. No. 63,803

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 13th day of August, 2010.

Ryan Saunders
Name

Signature

S/N 11/676,095 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Jean Patrice Rakotoniana et al.	Examiner: Thinh T. Nguyen
Serial No.:	11/676,095	Group Art Unit: 2818
Filed:	February 16, 2007	Docket: 3245.012US1
Title:	METHOD AND SYSTEM FOR REMOVING IMPURITIES FROM LOW-GRADE CRYSTALLINE SILICON WAFERS	

REQUEST FOR EARLY PUBLICATION UNDER 37 CFR 1.219

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants hereby request early publication under 37 CFR 1.219 of the above-identified patent application. **Please charge Deposit Account No. 19-0743 in the amount of $300.00 as set forth in 37 CFR 1.18(d).**

Applicant believes the application is in condition for early publication and the Examiner is invited to telephone Applicants' attorney at (612) 349-9580 to facilitate publication of the application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 349-9580

Date August 13, 2010 By Nicholas P. Lanzatella

Nicholas P. Lanzatella
Reg. No. 63,803

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 13th day of August, 2010.

Ryan Saunders
Name

Signature

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.
11/676,095	02/16/2007	Jean Patrice Rakotoniana	CALI003US0	7488

48746 7590 09/03/2010
HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
AUSTIN, TX 78701

EXAMINER
NGUYEN, THINH T

ART UNIT	PAPER NUMBER
2818	

MAIL DATE	DELIVERY MODE
09/03/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
AUSTIN TX 78701

In re Application of	:	
RAKOTONIANA et al.	:	DECISION ON PETITION
Application No. 11/676,095	:	TO MAKE SPECIAL UNDER
Filed: 16 February 2007	:	THE GREEN TECHNOLOGY
Attorney Docket No. CALI003US0	:	PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed on 13 August 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made

by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item 4.

In regard to item 4, applicant's statement pertaining to how the materiality standard is met does not satisfy the requirements for this pilot. The instant petition includes a statement identifying the basis for the special status as materially contributing the development of renewable energy resources or energy conservation. Specifically, the petition indicates that the present invention can be used in the development of solar power. However, the materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to the development of renewable resources or energy conservation. The claims are directed a semiconductor wafer and a method for removing impurities from low-grade crystalline semiconductor wafers. Any argument that the claimed invention can be used to with solar devices is considered speculate as to how a hypothetical end-user might specially apply the claimed invention.

Any reconsideration of this decision should be submitted through the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2818 for action in its regular turn.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120309

DATE :

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 8101186

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:

/RAM R SHUKLA/
Supervisory Patent Examiner.Art Unit 1644

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Slater & Matsil, L.L.P.
17950 Preston Rd
Suite 1000
Dallas TX 75252

MAILED
MAR 30 2012
OFFICE OF PETITIONS

In re Application of :
Patel et al. :
Application No. 11/676,209 :
Filed: February 16, 2007 : DECISION ON PETITION
Attorney Docket No. LMC-MC- : UNDER 37 C.F.R. § 1.137(B)
00793 :
Title: APPARATUS AND METHOD FOR :
SELECTIVELY AFFECTING A LAUNCH :
TRAJECTORY OF A PROJECTILE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 28, 2012, 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 within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed June 21, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 22, 2010. A notice of abandonment was mailed on January 18, 2011.

On February 28, 2012, Petitioner filed a RCE along with, *inter alia*, the associated fee, the petition fee, and the proper statement of unintentional delay.

The RCE has been accepted as the required reply under 37 C.F.R.

§ 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on February 28, 2012 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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CASCADE OPTHALMICS/ SPRAY VENTURE PARTNERS
2330 WASHINGTON STREET
NEWTON MA 02462

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Connors et al.	:	
Application No. 11/676,222	:	ON PETITION
Filed: February 16, 2007	:	
Attorney Docket No. 19000.4003	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the three (3) month extension of time obtained on November 24, 2010, the date of abandonment of this application is November 27, 2010. A Notice of Abandonment was mailed December 7, 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.

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) 272-6059.

This application is being referred to Technology Center AU 3735 for processing of the reply and for appropriate action by the Examiner in the normal course of business on the amendment submitted.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KENNETH ROBERTS
ORRICK HERRINGTON AND SUTCLIFFE LLP
4 PARK PLAZA STE 1600
IRVINE, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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DONALD L. MARTIN
2305 CAMBRIDGE AVE.
CARDIFF CA 92007

MAILED

JAN 30 2012

OFFICE OF PETITIONS

In re Application of
Donald L. Martin :
Application No. 11/676,238 : ON PETITION
Filed: February 16, 2007 :
Title of Invention: **Toilet Clog Removal and Cleaning System** :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 9, 2012, to revive the above identified application.

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

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

In response to a non-Final Office Action mailed October 5, 2010 an amendment was filed on January 30, 2009. However, in response thereof, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed December 22, 2010 which set a one month period for reply. No reply or extensions of time having been requested, this application became abandoned January 22, 2010. Accordingly, a Notice of Abandonment was mailed December 13, 2011.

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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)).

Comes now petitioner with the instant petition and response to the Notice of Non-Compliant Amendment (37 CFR 1.121). Unfortunately however, the fee for a Petition to Revive under 37 CFR 1.137(b) is set at $930 for a small entity, not $830 as has been paid by check. Since no authorization to charge a deposit account has been provided, the petition is dismissed and the application will remain in an abandoned status until such time as the balance of the petition fee has been paid.

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED

MAR 28 2012

OFFICE OF PETITIONS

DONALD L. MARTIN
2305 CAMBRIDGE AVE.
CARDIFF CA 92007

In re Application of
Donald L. Martin :
Application No. 11/676,238 : ON PETITION
Filed: February 16, 2007 :
Title of Invention: **Toilet Clog Removal and Cleaning System** :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed March 20, 2012, to revive the above-identified application.

The petition is **GRANTED**.

In response to a non-Final Office Action mailed October 5, 2010 an amendment was filed on January 30, 2009. However, in response thereof, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed December 22, 2010 which set a one month period for reply. No reply or extensions of time having been requested, this application became abandoned January 22, 2010. Accordingly, a Notice of Abandonment was mailed December 13, 2011. In response thereof, a petition to revive was filed on January 9, 2012. The petition was dismissed in a decision mailed January 30, 2012 because the petition fees were deficient.

Comes now petitioner with the instant renewed petition and the proper petition fees. All other requirements having been met, this matter is being referred to Technology Center 3751 for further examination.

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

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

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

(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 requiree 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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SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO CA 93406

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of	:
Rosenberg, Louis B.	:
Application No. 11/676,298	: DECISION GRANTING PETITION
Filed: February 18, 2007	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 3502.151	: 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 June 8, 2011, 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 Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on February 18, 2007 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii). Additionally, the intermediate applications were filed within twelve months of provisional applications listed in the amendment to the specification.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an

unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2614 for appropriate action on the amendment submitted June 8, 2011, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

/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
11/676,298	02/18/2007	2614	800	3502.151	31	4

CONFIRMATION NO. 7868

CORRECTED FILING RECEIPT

26375
SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO, CA 93406

OC000000048754995

Date Mailed: 07/13/2011

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)

Louis B. Rosenberg, Arroyo Grande, CA;

Assignment For Published Patent Application

OUTLAND RESEARCH, LLC, Pismo Beach, CA

Power of Attorney: The patent practitioners associated with Customer Number 26375

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/809,951 05/31/2006
and is a CIP of 11/223,368 09/09/2005 ABN
which claims benefit of 60/644,417 01/15/2005
This application 11/676,298
is a CIP of 11/267,079 11/03/2005 PAT 7,542,816
which claims benefit of 60/648,197 01/27/2005
and claims benefit of 60/665,291 03/26/2005
This application 11/676,298
is a CIP of 11/533,037 09/19/2006 PAT 7,562,117
which is a CIP of 11/285,534 11/22/2005 PAT 7,489,979
and is a CIP of 11/223,368 09/09/2005 ABN
which claims benefit of 60/644,417 01/15/2005
and said 11/285,534 11/22/2005
claims benefit of 60/648,197 01/27/2005
and claims benefit of 60/665,291 03/26/2005
and claims benefit of 60/651,771 02/09/2005
This application 11/676,298
is a CIP of 11/285,534 11/22/2005 PAT 7,489,979
which claims benefit of 60/648,197 01/27/2005

and claims benefit of 60/651,771 02/09/2005
and claims benefit of 60/665,291 03/26/2005
This application 11/676,298
is a CIP of 11/383,197 05/12/2006 ABN
which claims benefit of 60/723,021 10/01/2005

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

If Required, Foreign Filing License Granted: 03/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/676,298**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

System, Method and Computer Program Product for Intelligent Groupwise Media Selection

Preliminary Class

700

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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THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Patent No. 7,334,540
Issue Date: February 26, 2008
Application No. 11/676,368
Filed: February 19, 2007
Attorney Docket No. 44772-66591

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 2, 2011.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHONTA Y. GOOCH
584 ROUNTREE RD
RIVERDALE GA 30274

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Gooch, et al.	:	
Application No. 11/676,386	:	DECISION
Filed/Deposited: 19 February, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 9 August, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

Petitioner questions the failure of the Office to enter a change of Address.

Petitioner is reminded that there are multiple inventors listed for the application, and when applications are prosecuted without an attorney or agent registered to practice before the Office, papers must be signed by all applicants (*see, inter alia*, MPEP §714.01(a), as set forth below). Otherwise papers are considered to be unsigned and not proper to enter.

Further, Petitioner failed to seek relief under the Rule (37 C.F.R. §1.181) within two months of the action complained of.

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, supporting documentation and a copy of the reply).

Petitioner failed to make the showing required.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the non-final Office action mailed on 23 June, 2009, with reply due absent extension of time on or before 23 September, 2009.

The application went abandoned by operation of law after midnight 23 September, 2009.

The Office mailed the Notice of Abandonment on 12 January, 2010.

On 9 August, 2010, Petitioner filed a petition a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt and prior request to change address, which had not been entered. Petitioner failed to make the showing as required.

The guidance in the Commentary at MPEP §714.01(a) provides in pertinent part:

> **714.01(a)Unsigned or Improperly Signed Amendment [R-3]**
> *37 C.F.R. 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.*
> *****
> **>
> (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 attorney or 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 one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

***

When an unsigned or improperly signed amendment is received the amendment will be listed in the contents of the application file, but not entered. The examiner will notify applicant of the status of the application, advising him or her to furnish a duplicate amendment properly signed or to ratify the amendment already filed. In an application not under final rejection, applicant should be given a 1-month time period in which to ratify the previously filed amendment (37 C.F.R. 1.135(c)).

Applicants may be advised of unsigned amendments by use of form paragraph 7.84.01.

***

Petitioner failed to satisfy the showing requirements of a petition pursuant to 37 C.F.R. §1.181, as discussed below. Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)).

To prevail herein on a petition pursuant to 37 C.F.R. §1.181 Petitioner **must** comply with that guidance.

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]

***

With regard to a request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely reply:

***

> [The regulations at] 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing

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[1] *See*: MPEP §711.03(c) (I)(A).

(i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the

[2] *See*: MPEP §711.03(c) (I)(B).

> patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.
>
> Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).
>
> ***

In the instant matter, Petitioner appears not to comply with and/or otherwise satisfy these requirements.

Should Petitioner wish to revive the application: Petitioner must 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)

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation **must** be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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

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 must 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.)

Petitioner's failure to file timely such a petition may be considered *indicia* of delay other than that which is unintentional.

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

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

Application No. 11/676,386

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

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

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

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

CC
SHONTA Y. GOOCH
334 MICHAEL DRIVE
ALPHARETTA, GA 30004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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SHONTA Y. GOOCH
TRACY STROZIER
334 MICHAEL DRIVE
ALPHARETTA GA 30009

MAILED
OCT 01 2010
OFFICE OF PETITIONS

In re Application of
Gooch, et al.
Application No. 11/676,386
Filed/Deposited: 19 February, 2007
Attorney Docket No. (None)

DECISION

This is a decision on the petition filed on 16 September, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

The Notice of Change of Address, signed by both Applicants, has been entered.

Petitioner is reminded that there are multiple inventors listed for the application, and when applications are prosecuted without an attorney or agent registered to practice before the Office, papers must be signed by all applicants (*see, inter alia*, MPEP §714.01(a), as set forth below). Otherwise papers are considered to be unsigned and not proper to enter.

Further, Petitioner is reminded that Petitioner failed to seek relief under the Rule (37 C.F.R. §1.181) within two months of the action complained of.

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, supporting documentation and a copy of the reply).

Petitioner failed to make the showing required.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the non-final Office action mailed on 23 June, 2009, with reply due absent extension of time on or before 23 September, 2009.

The application went abandoned by operation of law after midnight 23 September, 2009.

The Office mailed the Notice of Abandonment on 12 January, 2010.

On 9 August, 2010, Petitioner filed a petition a petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt and prior request to change address, which had not been entered. Petitioner failed to make the showing as required. The petition was dismissed on 30 August, 2010.

On 16 September, 2010, Petitioner re-advanced the petition pursuant to 37 C.F.R. §1.181 and averred, *inter alia*, non-receipt. As previously noted, Petitioner moved before properly Noticing the Office of the change of address. Thus, the non-final Office action was mailed to the correspondence address of record, which address Petitioner(s) had not properly and timely corrected in Office records. Thus, Petitioner again failed to make the showing as required, and clearly cannot do so. Petitioner's failure to promptly file a petition (with fee) to revive pursuant to 37 C.F.R. §1.137(b), along with the other requirements thereof (statement of unintentional delay and required reply) may be considered indicia of delay that is not unintentional.

Petitioner failed to satisfy the showing requirements of a petition pursuant to 37 C.F.R. §1.181, as discussed below. Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)).

To prevail herein on a petition pursuant to 37 C.F.R. §1.181 Petitioner **must** comply with that guidance. Or Petitioner must file a petition to revive and aver unintentional delay, pursuant to the regulations at 37 C.F.R. §1.137(b).

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]

***

With regard to a request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely reply:

***

> [The regulations at] 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A

[1] *See*: MPEP §711.03(c) (I)(A).

petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

[2] *See*: MPEP §711.03(c) (I)(B).

Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

In the instant matter, Petitioner appears not to comply with and/or otherwise satisfy these requirements.

Should Petitioner wish to revive the application: Petitioner must 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)

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation **must** be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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 must properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under

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

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.)

Petitioner's failure to file timely such a petition may be considered *indicia* of delay other than that which is unintentional.

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

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
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By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/676,421	02/19/2007	Paul E. Schofield SR.	52454.0001	8148

27101 7590 08/18/2010
PATENT GROUP
MACDONALD, ILLIG, JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE, PA 16507-1459

EXAMINER
ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
08/18/2010	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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PATENT GROUP
MACDONALD, ILLIG, JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE PA 16507-1459

In re Application of:
SCHOFIELD, PAUL E. SR.
Serial No.: 11/676,421
Filed: Feb. 19, 2007
Docket: 52454.0001
Title: UNIVERSAL RATING SYSTEM FOR POCKET BILLIARD PLAYERS

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on August 13, 2010 seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103.

The petition is dismissed.

On August 13, 2010, petitioner filed the current petition to suspend office action to provide additional time to wait for the outcome of public comments on the interim guidance by September 27, 2010 (75 Fed. Reg. 43923). The USPTO intends to issue final guidance after evaluating the public comments. In the petition, petitioner alleges that the applicant requests a suspension of action on the patent application for a period of six (6) months to allow the USPTO time to develop and formulate the final guidance so that examiners will be provided with a permanent test or methodology to be used to determine if claims are directed to patentable subject matter under 35 U.S.C. § 101. Petitioner further is concerned that should prosecution proceed on the present application, a final decision regarding the patentability of the subject matter of the instant invention will be of only temporary consequence and will ultimately be subject to the final guidance issued by the USPTO after evaluating the public comments.

The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Petitioner arguments regarding the final guidance to the examiner in view of the outcome of the Bilski v. Kappos case is speculative. The

USPTO does not allow an examiner to examine patent applications based on speculations of what the final guidance will be. Currently, the examiner has followed the Interim Guidance for examination of claims. There is no error found in the non-final Office action of April 8, 2010. Any disagreement on the merits of the claims in the examiner's Office action is appealable issue and will not be decided by petitions (37 CFR § 1.181). Accordingly, petitioner has failed to establish good and sufficient reasons to delay the prosecution. The application remains in active status and being returned to the examiner for immediate examination of the application and issuance of an Office action in response to the applicant's Rule amendment filed on July 8, 2010.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3711 for preparation of an Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

PETITION DISMISSED.

Donald T. Hajec, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/676,421	02/19/2007	Paul E. Schofield SR.	52454.0001	8148

27101 7590 10/28/2010
PATENT GROUP
MACDONALD, ILLIG, JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE, PA 16507-1459

EXAMINER
ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
10/28/2010	PAPER

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

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PATENT GROUP
MACDONALD, ILLIG, JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE PA 16507-1459

In re Application of:
SCHOFIELD, PAUL E. SR.
Serial No.: 11/676,421
Filed: Feb. 19, 2008
Docket: 52454.0001
Title: UNIVERSAL RATING SYSTEM FOR POCKET BILLIARD PLAYERS

DECISION ON PETITION
under 37 CFR 1.181

This is a decision on the petition filed on October 18, 2010 under 37 CFR § 1.181, seeking to withdraw the finality of the Office action of August 18, 2010 on the grounds that it is premature because it contains new grounds of rejection.

The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required.

The petition is DISMISSED.

The following relevant facts show that:

1. A non-final Office Action was mailed on April 8, 2010, rejecting claims 6-13 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wozniak (5,350,171). Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owen (4,784,388).

Best Available Copy

2. The applicant filed a response on July 8, 2010 with arguments and some claim amendments to independent claims 6, 7 and 10. The applicant did traverse the examiner's rejection.

3. A Final Office Action was mailed on August 18, 2010, again, rejecting claims 6-13 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wozniak (5,350,171). Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owen (4,784,388). The examiner also answered the applicant's arguments in the final Office action.

4. In response to the Final Office Action of August 18, 2010, the applicant filed the current petition arguing the examiner has improperly introduced new grounds of rejection regarding an abstract idea.

Discussion and Analysis

In the petition, petitioner argues, inter alia, that the examiner has included the elements from the latest Supreme Court decision on Bilski case in her rejection of the claims under 35 USC § 101. This inclusion constitutes new grounds of rejection. The new grounds of rejection was prompted by the Supreme Court decision that was promulgated after the non-final Office action of April 8, 2010 but before the final Office action of August 18, 2010. This line of argument is not persuasive. A review of the non-final Office action of April 8, 2010 and the final Office action of August 18, 2010 shows there is no new ground of rejection at all. The rejections of claims were never changed. Therefore, the final rejection is proper and in compliance with M.P.E.P. § 706.07(a)[1].

In the petition, petitioner argues that the examiner provided a different reasons in rejecting the claims under 35 USC § 101 in the final Office action. However, petitioner still fails to identify any particular rejection under Paragraphs 2-6 of the final Office action which constitutes new ground of rejection. It should be noted that there is no new ground of rejection when the basic thrust of the rejection remains the same such that an applicant has been given a fair opportunity to react to the rejection in the first place (see pages 10-11 of the Remarks of July 8, 2010). While the final Office action version might be more precise in view of the amended claims, it can not fairly be said that applicant did not have an opportunity to respond to the argument after receiving the first non-final Office Action. The only place the examiner mentioned "abstract idea" in Paragraph 7 of

[1] Relevant portion of MPEP § 706.07(a): Final Rejection, When Proper on Second Action, states: Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

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of the final Office action was to present rebuttal arguments responding the applicant's arguments regarding the Office policy using machine-or-transformation test on pages 10-11 of the Remarks of July 8, 2010. The examiner's rebuttal arguments in the final Office action do not alter the grounds of rejection presented in the Paragraphs 2-6 of the final Office action. In this case, the statutory basis for the rejection and the evidence relied upon in support of the rejection remained the same in the non-final Office action of April 8, 2010 and the final Office action of August 18, 2010. In such a circumstance, a change in the discussion of, or rationale in support of, a change of, the rejection, if any, the examiner's rejections and rebuttal arguments do not necessarily constitute a new ground of rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425,426-27 (CCPA 1976); MPEP § 1207.03III)[2].

In the petition, petitioner also argues that the Supreme Court in Bilski decision has reversed the Federal Circuit's holding. Therefore, the examiner's rejections of claims under 35 USC s 101 are improper. Petitioner is raising arguments to the improper rejections of the claims that are appealable and not petitionable. As such, the petition does not support the relief requested under 37 CFR § 1.181(a) (1)[3]. The issues presented by petitioner are clearly directed to the propriety of the examiner's rejection of the claims under 35 U.S.C. 101. The question of whether claims 1-13, for example, should be rejected under 35 U.S.C. § 101, or not, is an appealable issues under 37 CFR 41.31(a) (1). Therefore, the relief requested by petitioner cannot be granted by petition.

Conclusion

For the forgoing reasons, the record shows that the examiner was in compliance with proper examining practice as set forth in M.P.E.P. 706.07(a). Therefore, the finality of the Office action is appropriate. The relief requested by petitioner to withdraw the finality of the final Office action will not be granted. In particular, there is no new ground of rejection found in the final Office action of August 18, 2010.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1. 136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this

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[2] MPEP 1207.03 III states in pertinent part: There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

[3] 37 CFR § 1.181 Petition to the Director. (a) Petition may be taken to the Director: (1)From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.

Donald T. Hajec, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/676,421	02/19/2007	Paul E. Schofield SR.	52454.0001	8148

27101 7590 12/01/2010
PATENT GROUP
MACDONALD, ILLIG, JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE, PA 16507-1459

EXAMINER
ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
12/01/2010	PAPER

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

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

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PATENT GROUP
MACDONALD, ILLIG, JONES & BRITTON LLP
100 STATE STREET
SUITE 700
ERIE PA 16507-1459

In re Application of:
SCHOFIELD, PAUL E. SR.
Serial No.: 11/676,421
Filed: Feb. 19, 2008
Docket: 52454.0001
Title: UNIVERSAL RATING SYSTEM FOR POCKET BILLIARD PLAYERS

DECISION ON PETITION
under 37 CFR 1.181

This is a decision on the renewed petition filed on November 8, 2010 under 37 CFR § 1.181, seeking to withdraw the finality of the Office action of August 18, 2010 on the grounds that it is premature because it contains new grounds of rejection. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required.

The renewed petition is denied.

The following relevant facts show that:

1. A non-final Office Action was mailed on April 8, 2010, rejecting claims 6-13 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-13 were rejected particularly that they are directed to a method or process claim that does not transform underlying subject matter (such as an article or materials) to a different state or thing, nor are they tied to a particular machine. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wozniak (5,350,171). Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owen (4,784,388).

2. The applicant filed a response on July 8, 2010 with arguments and some claim amendments to independent claims 6, 7 and 10. The applicant did traverse the examiner's rejection.

3. A Final Office Action was mailed on August 18, 2010, again, rejecting claims 6-13 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly

point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 6 is also separately rejected under 35 U.S.C. § 101 as directed to a method or process claim that does not transform underlying subject matter (such as an article or materials) to a different state or thing, nor are they tied to a particular machine. The examiner also separately commented that the claimed method for determining a universal rating based at least on a pocket billiard current average for a pocket billiard player, is not considered to be tied to a particular machine because it does not require that the method be implemented by a particular machine. The claimed invention is broad enough to read on a purely mental process. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wozniak (5,350,171). Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owen (4,784,388). The examiner also answered the applicant's arguments in the final Office action. In view of the separate explanation of rejections of at least claim 6, the examiner stated that the applicant's amendment of July 8, 2010 necessitated the new grounds of rejection.

4. In response to the Final Office Action of August 18, 2010, the applicant filed a petition arguing the examiner has improperly introduced new grounds of rejection regarding an abstract idea test.

5. The petition of August 18, 2010 was dismissed on October 28, 2010 because there was no new ground of rejection found.

6. On November 8, 2010, the current renewed petition was filed.

Discussion and Analysis

Page 3 of the renewed petition, petitioner argues that in the "Response to Arguments" of the final rejection of August 18, 2010, the examiner mentioned "abstract idea" but the applicant did not raise this issue. By alluding to the "abstract idea" in the examiner's rebuttal arguments, petitioner believes that the examiner has changed the rationale in the rejection of claims to "abstract idea test". Therefore, the examiner's rebuttal arguments in this regard now constitute new grounds of rejection. This line of argument is not persuasive. The only place the examiner mentioned "abstract idea" in Paragraph 7 under "Response to Arguments" of the final rejection was to present rebuttal arguments responding the applicant's arguments regarding the Office policy using machine-or-transformation test on pages 10-11 of the Remarks of July 8, 2010. A careful perusal of the amendment of July 8, 2010 and the final rejection of August 18, 2010 indicates that the examiner merely answered the applicant's arguments regarding the Bilski case. While doing so, the examiner appears to analogize the current claims directed to "pure mental process" as an "abstract idea" to support her interpretation of claim language under the rejection of 35 USC §101. There is no mention about "abstract idea test" in the rejection of claims as stated in Paragraphs 3-6 of the final rejection. In the final rejection of the claims, the term "abstract idea" test is not present. The examiner's rebuttal arguments of Paragraph 7 of the final Office action do not alter the grounds of rejection presented in the Paragraphs 2-6 of the final Office action. In this case, the statutory basis

for the rejection and the evidence relied upon in support of the rejection remained the same in the non-final Office action of April 8, 2010 and the final Office action of August 18, 2010. The rebuttal arguments do not change the basis of the rejection under 35 USC § 101 as set forth in Paragraphs 2-6 of the final rejection. Since there is no rejection based on the alleged "abstract idea test", the applicant does not have to respond to this non-existent rejection.

Pages 4-5 of the renewed petition, petitioner argues that in the final rejection of August 18, 2010, the examiner has stated that the applicant's amendment necessitated the new grounds of rejection. The examiner's statement contradicts the previous decision mailed on October 28, 2010. However, a careful review of the non-final Office action of April 8, 2010 and the final Office action of August 18, 2010 shows there is no new ground of rejection. The rejections of claims were never changed. The examiner's statement regarding new grounds of rejection necessitated by the applicant's amendment appears to be in response to the applicant's amended claims 6, 7 and 10 because separate explanations of the rejections of claims 6, 7 and 10 were necessitated. The final rejection is proper and in compliance with M.P.E.P. § 706.07(a)[1].

The renewed petition fails to add anything new that is persuasive to cause reversal of the previous decision. In particular, petitioner fails to identify any particular rejection under Paragraphs 2-6 of the final Office action which constitutes new ground of rejection. While the final Office action version might be more precise in view of the amended claims, it can not fairly be said that applicant did not have an opportunity to respond to the argument after receiving the first non-final Office Action. The decision is maintained.

Conclusion

For the forgoing reasons, the record shows that the examiner was in compliance with proper examining practice as set forth in M.P.E.P. 706.07(a). Therefore, the finality of the Office action is appropriate. The relief requested by petitioner to withdraw the finality of the final Office action will not be granted. In particular, there is no new ground of rejection found in the final Office action of August 18, 2010.

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). 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. No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

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[1] Relevant portion of MPEP § 706.07(a): Final Rejection, When Proper on Second Action, states: Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

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

PETITION DENIED.

Donald T. Hajec, Director
Technology Center 3700

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

In re Application of	:	
Pierre Bonnat	:	
Application No. 11/676,456	:	DECISION ON PETITION
Filed: February 19, 2007	:	
Attorney Docket No. P002C (2140.005US2)	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 22, 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 above-identified application became abandoned on May 23, 2007. A Notice of Abandonment was mailed on September 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the Additional Claim fees of $182.00, the $65.00 Surcharge fee, the $82.00 Basic filing fee, the $270.00 Search fee, and the $110.00 Examination fee; (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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ROSSI, KIMMS & McDOWELL LLP.
20609 Gordon Park Square, Suite 150
Ashburn VA 20147

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JAN 12 2011

OFFICE OF PETITIONS

In re Application of :
Leung, et al. :
Application No. 11/676,466 :
Filed: February 19, 2007 :
Attorney Docket No. IMMU-0013US1 :

ON PETITION

This is a decision on the petition, filed October 28, 2010, under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is **granted**.

Petitioner asserts that, while both of the named inventors contributed to the conception of the claimed invention which is under rejection, only Dr. Hansen agreed to execute the declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to April 28, 1994.

Petitioner alleges that Shui-on Leung has refused to sign the declaration under 37 CFR 1.131 and requests that the Office accept the declaration executed by less than all the joint inventors.

37 CFR 1.131(a) states,

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

The Office has stated the signature requirements can be waived in certain circumstances.

(1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 714.

(2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable.

Petitioner has established that the non-signing inventor, Shui-on Leung, has refused to sign the declaration. Therefore, in the interest of justice, the signature requirement of Dr. Leung on the declaration under 37 CFR 1.131 is waived.

As stated in MPEP 715.08, "The question of sufficiency of affidavits or declarations under 37 CFR 1.131 should be reviewed and decided by a primary examiner."

The application is being returned to Technology Center A.U. 1644 for the examiner of record to consider whether the declaration submitted under 37 CFR 1.131 establishes invention of the subject matter of the rejected claims prior to the effective date of the *Harris* reference.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

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OFFICE OF PETITIONS

In re Application of	:	
Josh Sirota et al.	:	
Application No. 11/676,580	:	DECISION ON PETITION
Filed: February 20, 2007	:	TO WITHDRAW
Attorney Docket No. 149-0174US-C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED.**

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 no forwarding address was provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. 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. The most current address of the inventor/assignee is needed.

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
www.uspto.gov

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

JUN 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Josh Sirota et al.	:	
Application No. 11/676,580	:	DECISION ON PETITION
Filed: February 20, 2007	:	TO WITHDRAW
Attorney Docket No. 149-0174US-C	:	FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 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 a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. 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. The most current address of the inventor/assignee is needed.

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
www.uspto.gov

Brake Hughes Bellermann LLP
c/o CPA Global
P.O. Box 52050
Minneapolis MN 55402

MAILED
FEB 28 2012
OFFICE OF PETITIONS

In re Application of
Josh Sirota et al.
Application No. 11/676,580
Filed: February 20, 2007
Attorney Docket No. 149-0174US-C

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed September 28, 2011. Accordingly, the date of abandonment of this application is December 29, 2011. A Notice of Abandonment was mailed on January 13, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740 and the publication fee of $300, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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 the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/676,580	02/20/2007	Josh Sirota	0081-095002

CONFIRMATION NO. 8442

POA ACCEPTANCE LETTER

93236
Brake Hughes Bellermann LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

OC000000052611435

Date Mailed: 02/16/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2012.

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

/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

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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 08/06/2010

Applicant	: Jean-Philippe Vasseur	: DECISION ON REQUEST FOR
Patent Number	: 7660254	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/676,582	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **496** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/24/10 Paper No.: —

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/676586 Patent No.: 7722684 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: _____

AV1795

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/24/10 **Paper No.:** —

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/676586 Patent No.: 7722684 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: _____

Mohammad Siddiqui

Staple Here Only!

Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7722684

DATED: 25-MAY-2010

FIRST NAMED INVENTOR: Mekala, David Robert

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

Column 9

Line 29, delete " 2002 " and insert

— — 2002, under Attorney Docket 58218US002 — — therefor.

Column 20

Claim 5, Line 48, delete " claim 1 " and insert — — claim 1, — — therefor.

Column 21

Claim 19, Line 34, delete " scaling " and insert — — sealing — — therefor.

Column 22

Claim 21, Line 12, delete " how held " and insert — — flow field — — therefor.

MAILING ADDRESS OF SENDER:

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

PATENT NO. 7722684

No. of add'l copies: - 0-

@ 50¢ per page

No add'l copies

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1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :
Montemurro et al. :
Application No. 11/676,639 : DECISION ON PETITION
Filed: February 20, 2007 :
Attorney Docket No. 9516.062.NPUS00 :

This is a decision on the petition under 37 CFR 1.137(b) filed May 24, 2011, in the above-identified application.

The petition is **GRANTED**.

This above-identified application was held abandoned for failure to timely file a reply to the First Action Interview Office Action Summary mailed February 28, 2011. The Office Action set a one (1) month or thirty day period for reply. Accordingly, this application became abandoned on March 29, 2011. A Notice of Abandonment was mailed on May 9, 2011

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

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

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Attorney
Office of Petitions

PTO/SB/20PCT-EP (05-10)
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 EUROPEAN PATENT OFFICE (EPO) AND THE USPTO

Application No:	11676699	Filing date:	2007-02-20
First Named Inventor:	HODGES		
Title of the Invention:	APPARATUS AND METHOD FOR DE-WATERING OF SLURRIES		

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/GB2007/000544

The international filing date of the corresponding PCT application(s) is/are: 2007-02-16

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)**

- [x] 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).**

- [x] 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 EPO AND THE USPTO

(continued)

Application No.:	11/676,699
First Named Inventor:	Hodges

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 2007-06-14, 2007-10-09

(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 2007-06-14, 2007-10-09

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
24	35	Identical dependent claims that depend from identical independent claims (23 and 34, respectively)

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /Stephen L Grant, RegNo33390	Date 2011-03-24
Name (Print/Typed) Stephen L. Grant	Registration Number 33,390

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.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference WPP93040	**FOR FURTHER ACTION**	See item 4 below
International application No. PCT/GB2007/000544	International filing date *(day/month/year)* 16 February 2007 (16.02.2007)	Priority date *(day/month/year)* 17 February 2006 (17.02.2006)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant GENESIS FLUID SOLUTIONS LLC		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).

2. This REPORT consists of a total of 13 sheets, including this cover sheet.

   In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

☒	Box No. I	Basis of the report
☐	Box No. II	Priority
☒	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☒	Box No. IV	Lack of unity of invention
☒	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☐	Box No. VI	Certain documents cited
☐	Box No. VII	Certain defects in the international application
☒	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44*bis*.3(c) and 93*bis*.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44*bis* .2).

	Date of issuance of this report 19 August 2008 (19.08.2008)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Dorothée Mülhausen e-mail: pt01.pct@wipo.int

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/GB2007/000544	16.02.2007	17.02.2006

International Patent Classification (IPC) or both national classification and IPC
INV. B01D21/00 B01D29/05 B01D29/92 C02F11/12

Applicant
GENESIS FLUID SOLUTIONS LLC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notifed the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:	Date of completion of this opinion	Authorized Officer
European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	see form PCT/ISA/210	Lapeyrère, Jean Telephone No. +31 70 340-2333

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:

   ☒ the international application in the language in which it was filed

   ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

   a. type of material:

   ☐ a sequence listing

   ☐ table(s) related to the sequence listing

   b. format of material:

   ☐ on paper

   ☐ in electronic form

   c. time of filing/furnishing:

   ☐ contained in the international application as filed.

   ☐ filed together with the international application in electronic form.

   ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

☐ the entire international application

☒ claims Nos. 26, 29

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international search *(specify)*:

☒ the description, claims or drawings *(indicate particular elements below)* or said claims Nos. 26, 29 are so unclear that no meaningful opinion could be formed *(specify)*:

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed *(specify)*:

☐ no international search report has been established for the whole application or for said claims Nos.

☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

- ☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
- ☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
- ☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13*ter*.1(a) or (b).

☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See Supplemental Box for further details

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has, within the applicable time limit:

   ☒ paid additional fees

   ☐ paid additional fees under protest and, where applicable, the protest fee

   ☐ paid additional fees under protest but the applicable protest fee was not paid

   ☐ not paid additional fees

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is

   ☐ complied with

   ☒ not complied with for the following reasons:

   see separate sheet

4. Consequently, this report has been established in respect of the following parts of the international application:

   ☒ all parts.

   ☐ the parts relating to claims Nos.

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	1-22, 24, 25, 27, 28, 30-33, 35, 38, 39
	No:	Claims	34, 36, 37, 40
Inventive step (IS)	Yes:	Claims	35
	No:	Claims	1-34, 36-40
Industrial applicability (IA)	Yes:	Claims	1-40
	No:	Claims	

2. Citations and explanations

   see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. Claim 26 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claim attempts to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.

2. The apparatus claim 29 relates to a method of using the apparatus rather than clearly defining the apparatus in terms of its technical features. The intended limitations are therefore not clear from this claim, contrary to the requirements of Article 6 PCT.

3. It is not possible to carry out a meaningful examination of these claims.

Re Item IV

Lack of unity of invention

4. This Authority considers that there are 3 inventions covered by the claims indicated as follows:

   I: Claims 1 to 23 directed to a duct for feeding water having a solid suspended therein and the corresponding method.
   II: Claims 24 to 33 directed to an apparatus for dewatering a slurry an the corresponding method.
   III: Claims 34 to 40 directed to an apparatus for removing water from solids separated from a slurry and the corresponding method.

5. The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:

6. The devices of the claims 1, 24 and 34 are a duct, a dewatering device with flexible sieves and a container with first and second zones, the second zone being connected

to a pump.

7. It follows that it is not possible to find any special technical feature/s within the meaning of Rule 13.2 PCT.

8. Moreover each invention tend to solve a different problem:
- first invention aim at avoiding sedimentation of flocs during the mixing of the liquid with the flocculant.
- second invention aim at avoiding blinding of the sieve mats.
- third invention aims at improving the dewatering of solids separated from slurry.

9. In conclusion, the groups of claims are not linked by common or corresponding special technical features and define 3 different inventions not linked by a single general inventive concept.
The application, hence does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT.

10. Only the first invention was be examined, i.e. claims 1 to 23. Since all fees have been paid for all inventions, all the claims have been examined.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents (D1 to D4):

D1: US-A-5 938 936 (HODGES MICHAEL [US] ET AL) 17 August 1999 (1999-08-17)

D2: US-A-5 792 363 (RODGERS WILLIAM [AU]) 11 August 1998 (1998-08-11)

D3: US 2005/274652 A1 (LAVEINE ANDREW T [US] ET AL) 15 December 2005 (2005-12-15) cited in the application

D4: WO 03/105988 A (DERRICK MFG CORP [US]) 24 December 2003 (2003-12-24)

First invention

11. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 and 21 does not involve an inventive step in the sense of Article 33(3) PCT.

12. The document D1 is regarded as being the closest prior art to the subject-matter of claim 1 and discloses (see figures 6 to 8 and 14):

    a duct for use in an apparatus for separating suspended solid from water, said duct comprising:

    an inlet portion for receiving a flow of water having solid suspended therein, the inlet portion defining an inlet flow direction and having an inlet maximum width in a direction normal to the inlet flow direction, an outlet portion for delivering a flow of water having the solid suspended therein, the outlet portion defining an outlet flow direction and having an outlet maximum width in a direction normal to the outlet flow direction, the outlet maximum width being greater than the inlet maximum width, a duct section connecting the inlet portion and the outlet portion,

13. The subject-matter of claim 1 therefore differs from this known device in that "at least one gas feed is provided within the inlet portion or duct section, for allowing gas to be fed into the flow of liquid having solid suspended therein."

14. The problem to be solved by the present invention may therefore be regarded as avoiding sedimentation of the flocs.

15. The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons. In document D2, a device is disclosed where the feed for the gas is before the floating chamber (see column 3, line 10 to 20) to solve the same problem (see column 1, line 51 to 63). The fact that the feed is before the floating chamber or in the floating chamber is considered as being merely an alternative from which the man skilled in the art would chose without involving any inventive activity (Article 33(3) PCT).

16. The document D1 is regarded as being the closest prior art to the subject-matter of claim 1 and discloses (see figures 6 to 8 and 14):

a method of feeding water having a solid suspended therein for use in a method for separating the solid from the water, the method comprising feeding water having solid suspended therein into a duct, said duct comprising an inlet portion, the inlet portion defining an inlet flow direction and having an inlet maximum width in the direction normal to the inlet flow direction, an outlet portion for delivering the flow of water having solid suspended therein, the outlet portion defining an outlet flow direction and having an outlet maximum width in the direction normal to the outlet flow direction, the outlet maximum width being greater than the inlet maximum width, and a duct section connecting the inlet portion and the outlet portion,

17. The subject-matter of claim 1 therefore differs from this known device in that "wherein a gas is fed into the flow of water having solid suspended therein in the inlet portion or duct section."

18. For the same reasons as stated in §12, independent process claim 21 does not involve any inventive activity (Article 33(3) PCT).

19. Dependent claims 2 to 20 and 22 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, the reasons being as follows:
Subject matter of claims 2 to 7 is disclosed in document D1 (see figures 6 to 8 and 14). Concerning claims 8 to 20, it is not possible to distinguish any inventive activity in the features of said claims.

Second invention

20. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 24 and 32 does not involve an inventive step in the sense of Article 33(3) PCT.

21. The subject-matter of claim 24 differs from the apparatus disclosed in D3 in that there is a further separator. This feature is not linked to any technical effect in the description. Moreover it is considered as normal practice for the man skilled in the art to add a second separator after a first separator. Therefore claim 24 does not involve any

inventive activity.

The feature "for de-watering a stream of slurry" in the apparatus claim 24 is merely indicating that the apparatus is suitable for the intended use. (see Guidelines C.III 4.8)

22. Dependent claims 25, 27, 28, 30 and 31 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step, because they are disclosed in D3 or because they are obvious features which are part of the normal practice for the man skilled in the art and for which it is not possible to distinguish a technical effect.

23. The subject-matter of process claim 32 differs from the process disclosed in D3 this in that
- there is a further separator fed by the first separator and
- the treated feed is a slurry while D3 discloses only sieving of solids.

As already mentioned in §21 of the present communication, the first difference is not linked to any technical effect in the description and is considered as normal practice for the man skilled in the art.
Document D4 discloses a process where a device similar to the one of claim 24 is used to treat a slurry (page 1, line 5 to 15). It would be obvious for the man skilled in the art to use the apparatus of D1 to treat slurries.
Therefore it is considered that claim 24 does not involve any inventive activity.

Third invention

24. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 34 is not new in the sense of Article 33(2) PCT.

The document D4 discloses (the references in parentheses applying to this document):
an apparatus for removing water from solids which have been separated from a slurry, the apparatus comprising:
a vessel, having a first section (27 in figure 4B) and a second section (73, 74, 75 in figure 4B) , the first section and second section being separated by a filter screen (113 in figure 4B), the filter screen being configured to allow water to pass through and to retain solids,

the first section being for receiving solids which have been separated from slurry and the second section being connected to a pump assembly, the pump assembly being for removing water from the second section (implicit) and for reducing the pressure in the second section relative to the first section (page 18, line 23 to 26).

25. For the same reasons independent method claim 40 is not novel.

26. Dependent claim 35 is novel and inventive because no documents from the prior art discloses nor suggest its features.

27. Dependent claims 36 to 39 do not contain any features which, in combination with the features of any claims to which they refer, except claim 35, meet the requirements of the PCT in respect of inventive step because they are obvious features which are part of the normal practice for the man skilled in the art and for which it is not possible to distinguish any technical effect.

Re Item VIII

Certain observations on the international application

28. In page 25, third paragraph, it is made reference to "first portion duct 2", "second duct portion 21" and " second duct portion 3" which could not be found in figure 3.

29. In page 26, first paragraph, reference is made to "the walls 25", "the flanges 10" which could not be found in figure 3.

30. In page 28, third paragraph, reference is made to "long edges 268" which could not be found in any figures.

31. The vague and imprecise statement in the description on page 31, last paragraph implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.

32. It has been considered that claim 27 was dependent to claims 24 to 26.

33. It has been considered that claim 33 was dependent to the independent process claim 32.

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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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WG

June 7, 2011

In re application of Michael Hodges et al. Serial No. 11/676,699 Filed: February 20, 2007 For: APPARATUS AND METHOD FOR DE-WATERING OF SLURRIES	: : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY 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 (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed March 24, 2011, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

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

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof if the latest international work product is not in the English language; and

(7) 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.

The request to participate in the PPH program and petition fail because (i) Applicant has not submitted a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language, (ii) not all of the claims in the U.S. Application sufficiently correspond or have been amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s), and (iii) Applicant has failed to explain why the claim(s) is/are not subject to the observation in Box VIII.

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 within the time period given, the application will await action in its regular turn.

Any inquiry regarding this decision should be directed to Walter D. Griffin, Supervisory Patent Examiner, at (571) 272-1447.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Walter D. Griffin/

Walter D. Griffin
Supervisory Patent Examiner
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MAILED
NOV 29 2011
OFFICE OF PETITIONS

In re Patent No. 8,020,394
Issued: September 20, 2011
Application No. 11/676,710
Filed: February 20, 2007
Attorney Docket No. 19819-0134001 / OPP-AZ200

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on 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 582 to 685 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On September 20, 2011, the above-identified application matured into U.S. Patent No. 8,020,394, with a revised patent term adjustment of 582 days. On November 21, 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 685. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 10, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 103 day period from June 10, 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 103 days and be increased from 271 to 374 days. Patentee concludes that the correct patent term adjustment is 685 days (the sum of 441 days of "A delay" and 374 days of "B delay" minus 130 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR

1.702(b)(1) as 271 days based on the application having been filed under 35 U.S.C. 111(a) on February 20, 2007 and the patent not having issued as of the day after the three year date, February 20, 2010, and a request for continued examination under 132(b) having been filed on November 19, 2010. In other words, the 103-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that

[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.

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

[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.

period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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

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

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

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

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

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C.

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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

In this instance, a request for continued examination was filed on November 19, 2010, 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 November 19, 2010 and ending on September 20, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 582 days indicated on the patent is correct.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Application of	:	
PEYMAN	:	
Application No. 11/676,793	:	DECISION ON PETITION
Filed: August 27, 2009	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2009_1572	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 4, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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 Technology Center Art Unit 3769 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/676,833	02/20/2007	Yasunobu Node	303683US8	8883

22850 7590 07/20/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DESIRE, GREGORY M

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
07/20/2011	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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
NODE, YASUNOBU et al
Application Serial No.: 11/676,833
Filed: February 20, 2007
For: **IMAGE PROCESSING APPARATUS AND METHOD, DATA RECORDING MEDIUM, PROGRAM RECORDING MEDIUM, AND PROGRAM THEREFOR**

DECISION
ON PETITION

MAIL

JUL 19 2011
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

This is a decision on the petition requesting withdrawal of the final action, filed April 21, 2011, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed February 22, 2011 final and requests withdrawal of finality of the Office action.

PERTINENT BACKGROUND INFORMATION

On August 17, 2010, the examiner issued a non-final office action rejecting all pending claims 1-18. Claims 7-11 and 14-16 were rejected under 35 USC 101. Claims 1-18 were provisionally rejected on the ground of nonstatutory obviousness type double patenting over claims 1-9 and 11 of copending application 11/677,223. Claims 1-3, 5-6, and 10-11 were rejected under 35 USC 102(e) as being anticipated by Nozaki et al.

On November 17, 2010 applicant filed an amendment and request for reconsideration. Claims 1, 7, 8, 10, 14, and 15 were amended. Claims 2, 5, 6, 11-13, 17, and 18 remained as originally filed. Claims 3, 4, 9, and 16 were cancelled.

On February 22, 2011, the Examiner issued a Final Office action rejecting all pending claims 1, 2, 5-8, 10-15, 17, and 18. Claims 1, 2, 5-8, 10-15, 17, and 18 were rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-9 and 11 of US patent No. 7,853,083. Claim 17 was rejected under 3 USC 102(e) as being anticipated by Nozaki et al.

On April 21, 2011, a petition to withdraw the holding of finality of the final rejection dated February 22, 2011 was filed. Along with the instant petition, applicant also filed an amendment after final rejection and a terminal disclaimer.

On June 02, 2011, the Examiner issued an Advisory action indicating the amendment filed April 21, 2011 will not be entered because the terminal disclaimer was disapproved.

On June 22, 2011, a RCE was filed and processed.

On June 24, 2011, the Examiner issued a Notice of Allowance.

DECISION

The issue of whether or not the examiner properly made final the office action on February 22, 2011 became moot with applicant's filing of an RCE on June 22, 2011. Accordingly, the RCE filed June 22, 2011 has been processed and application subsequently allowed.

For the reasons set forth above, the petition to withdraw finality is **DISMISSED AS MOOT.**

The application has been forwarded to the Office of Publications for post allowance processing.

John L. LeGuyader
Director
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/676,833	02/20/2007	Yasunobu Node	303683US8	8883

22850 7590 10/21/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DESIRE, GREGORY M

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
10/21/2011	ELECTRONIC

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

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

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

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

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

In re Application of NODE, YASUNOBU et al Application No. 11/676,833 Filed: February 20, 2007 For: **IMAGE PROCESSING APPARATUS AND METHOD, DATA RECORDING MEDIUM, PROGRAM RECORDING MEDIUM, AND PROGRAM THEREFOR**	: : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the petition, filed September 12, 2011, under 37 CFR 1.181 for consideration of a reference included with an Information Disclosure Statement filed February 20, 2007.

A review of the application file reveals that the information disclosure listing submitted on March 12, 2008, has been considered by the examiner. An initialed Form PTO-1449 was entered on August 30, 2011. Attached to this decision is a copy of the initialed Form PTO-1449.

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

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: Initialed Form PTO-1449

Form PTO 1449 (Modified)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT

ATTY DOCKET NO.	SERIAL NO.
303683US8	New Application
APPLICANT	
Yasunobu NODE, et al.	
FILING DATE	GROUP
Herewith	

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
/GD/	AO	2003-202944	7/18/2003	Japan (with English Abstract and Unedited Computer-Generated English Translation)	X	
	AP					
	AQ					
	AR					
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner /Gregory Desire/ Date Considered 08/29/2011

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/676,899	02/20/2007	Atsushi ONODA	303767US2	9002

7590 10/12/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2484	

NOTIFICATION DATE	DELIVERY MODE
10/12/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 10/12/2010 [illegible]
02/20/2007 INTERN [illegible] 11/676899
02 FC:1111 -500.00 CP

FORM PET651G (Rev. 08/07)

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Gregory A. Nelson
Novak Druce & Quigg LLP
525 Okeechobee Blvd
Suite 1500
West Palm Beach FL 33401

MAILED
APR 05 2011
PCT LEGAL ADMINISTRATION

In re Application of: PIRIM, Patrick.	:	
U.S. Application No.: 11/676,926	:	DECISION ON PETITIONS
U.S. Patent No.: 7,650,015	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: February 20, 2007	:	AND 1.55(c))
Attorney's Docket No.: 8042-2-1	:	
For: IMAGE PROCESSING METHOD	:	

This decision is issued in response to "PETITION TO ACCEPT UNINTENTIONALLY DELAYED PRIORITY CLAIMS UNDER 37 CFR §§ 1.78(a)(3) and 1.55(c)" filed August 20, 2010. The petition under 37 CFR 1.78(a)(3) seeks to correct the domestic priority claim in the above-captioned patent to identify the patent as a divisional of U.S. application number 09/792,294, which is a continuation-in-part (CIP) of US. Application number 09/230,502, which is the national stage under 35 U.S.C. 371 of PCT/FR97/01354. The petition under 37 CFR 1.55(c) seeks to add an unintentionally delayed claim of foreign priority to French application FR 9609420.

For the reasons set forth below, the petitions are **DISMISSED** without prejudice.

1. 37 CFR 1.78(a)(3)

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the corrected benefit claim under 35 U.S.C. 120 is submitted after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii). Under the circumstances present here, the petition is properly considered under 37 CFR 1.78(a)(3). See MPEP section 1481.03.

A grantable petition under 37 CFR 1.78(a)(3) must be accompanied by the following:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

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

37 CFR 1.78(a)(2)(iii) states that the required reference to the prior-filed application(s) "must be included in an application data sheet (37 CFR 1.76) or the specification must be amended to contain such reference in the first sentence(s) following the title." Petitioner here has filed a Certificate of Correction setting forth the corrected reference to the prior-filed applications; however, petitioner did not include an accompanying amendment to the specification of the application or a supplemental application data sheet. Accordingly, petitioner has not provided the reference to the prior-filed applications in the form required by 37 CFR 1.78.

In addition, it would not be appropriate to grant the petition at this time since the petition under 37 CFR 1.78(a)(3) in parent application number 09/792,294 has not been granted and, as such, the claimed chain of continuity has not been established.

Based on the above, the petition under 37 CFR 1.78(a)(3) may not be granted on the present record.

2. <u>37 CFR 1.55(c)</u>

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the foreign priority claim under 35 U.S.C. 119(a)-(d) or 365(a) directed to French application number FR 9609420 was not submitted prior to the expiration of the time period specified in 37 CFR 1.55(a)(1). Accordingly, this is an appropriate petition under the provisions of 37 CFR 1.55(c).[1]

A grantable petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for foreign priority requires the following:

(1) the claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
(2) the surcharge as set forth in 37 CFR 1.17(t);
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

[1] As noted in the present petition, pursuant to MPEP section 201.16, a certificate of correction accompanied by a grantable petition under 37 CFR 1.55(c) is permissible for adding an unintentionally delayed foreign priority claim to an issued patent where the foreign priority claim to be added was perfected in a parent application prior to the issuance of the patent.

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

Pursuant to MPEP section 201.13, a claim for foreign priority must be contained in either an oath or declaration (37 CFR 1.63(c)(2)) or an application data sheet (37 CFR 1.76). Petitioner here has filed a Certificate of Correction setting forth the foreign priority claim; however, petitioner did not include an accompanying oath or declaration or a supplemental application data sheet containing such claim. Accordingly, petitioner has not submitted the foreign priority claim in an acceptable form.

In addition, it would not be appropriate to grant the petition at this time since the petition under 37 CFR 1.55(c) in parent application number 09/792,294 has not been granted and, as such, the foreign priority claim to be added has not been perfected in the parent case.

Based on the above, applicants have failed to satisfy the requirements for a grantable petition under 37 CFR 1.55(c) for acceptance of an unintentionally delayed foreign benefit claim.

CONCLUSION

For the reasons set forth above, the petitions under 37 CFR 1.78(a)(3) and 1.55(c) are **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.

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

/Boris Milef/
Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 9/2/10

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/676926 Patent No.: 7650015 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: All Corrections have been approved.

VIKKRAM BALI 2624

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MAILED
JAN 05 2012
PCT LEGAL ADMINISTRATION

Gregory A. Nelson
Novak Druce & Quigg LLP
525 Okeechobee Blvd
Suite 1500
West Palm Beach FL 33401

In re Application of: PIRIM, Patrick.	:	
U.S. Application No.: 11/676,926	:	DECISION ON PETITIONS
U.S. Patent No.: 7,650,015	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: February 20, 2007	:	AND 1.55(c))
Attorney's Docket No.: 8042-2-1	:	
For: IMAGE PROCESSING METHOD	:	

This decision is issued in response to the "REQUEST FOR RECONSIDERATION OF PETITION DECISION" filed on 20 May 2011, which requests reconsideration under 37 CFR §§ 1.78(a)(3) and 1.55(c). The petition under 37 CFR 1.78(a)(3) seeks to correct the domestic priority claim in the above-captioned patent to identify the patent as a divisional of U.S. application number 09/792,294, which is a continuation-in-part (CIP) of US. Application number 09/230,502, which is the national stage under 35 U.S.C. 371 of PCT/FR97/01354. The petition under 37 CFR 1.55(c) seeks to add an unintentionally delayed claim of foreign priority to French application FR 9609420.

For the reasons set forth below, the petitions are **DISMISSED** without prejudice.

1. 37 CFR 1.78(a)(3)

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the corrected benefit claim under 35 U.S.C. 120 is submitted after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii).[1] Under the circumstances present here, the petition is properly considered under 37 CFR 1.78(a)(3). See MPEP section 1481.03.

A grantable petition under 37 CFR 1.78(a)(3) must be accompanied by the following:

[1] It is noted that the addition of the statement identifying U.S. application number 09/230,502 as the national stage of PCT/FR97/01354 is not considered the addition of a new benefit claim that requires a petition under 37 CFR 1.78. See MPEP section 1893.03(c), "a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the international filing date of the international application." See also Broadcast Innovation, L.L.C. and IO Research PTY LTD v. Charter Communications, Inc. and Comcast Corporation, 420 F.3d 1364, 1367 (Fed. Cir., Aug 19, 2005): "Where proper reference to a national stage application exists, no reference to the corresponding PCT application is required because the national stage application effectively has the same U.S. filing date as the PCT application."

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

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

37 CFR 1.78(a)(2)(iii) states that the required reference to the prior-filed application(s) "must be included in an application data sheet (37 CFR 1.76) or the specification must be amended to contain such reference in the first sentence(s) following the title." Petitioner here has filed a Certificate of Correction setting forth the corrected reference to the prior-filed applications; however, petitioner did not include an accompanying amendment to the specification of the application or a supplemental application data sheet. Accordingly, petitioner has not provided the reference to the prior-filed applications in the form required by 37 CFR 1.78.

Petitioner argues that a request for Certificate of Correction may be used in lieu of an amendment or ADS to make the required reference. However, pursuant to the requirements of 35 U.S.C. 120 and Office policy, in the circumstances presented, petitioner must submit **both** a request for Certificate of Correction **and** an amendment to the application adding the specific reference to the parent application. *Cf.* the Decision on Petition in 09/792,294, mailed on September 27, 2011. Petitioner is also advised that the amendment included in the instant petition does not comply with 37 CFR 1.121(b)(1)(iii).

Based on the above, the petition under 37 CFR 1.78(a)(3) may not be granted on the present record.

2. 37 CFR 1.55(c)

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the foreign priority claim under 35 U.S.C. 119(a)-(d) or 365(a) directed to French application number FR 9609420 was not submitted prior to the expiration of the time period specified in 37 CFR 1.55(a)(1). Accordingly, this is an appropriate petition under the provisions of 37 CFR 1.55(c).[2]

A grantable petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for foreign priority requires the following:

[2] As noted in the present petition, pursuant to MPEP section 201.16, a certificate of correction accompanied by a grantable petition under 37 CFR 1.55(c) is permissible for adding an unintentionally delayed foreign priority claim to an issued patent where the foreign priority claim to be added was perfected in a parent application prior to the issuance of the patent.

(1) the claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
(2) the surcharge as set forth in 37 CFR 1.17(t);
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

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

Pursuant to MPEP section 201.13, a claim for foreign priority must be contained in either an oath or declaration (37 CFR 1.63(c)(2)) or an application data sheet (37 CFR 1.76). Petitioner here has filed a Certificate of Correction setting forth the foreign priority claim; however, petitioner did not include an accompanying oath or declaration or a supplemental application data sheet containing such claim. *Cf.* the Decision on Petition in 09/792,294, mailed on September 27, 2011. Accordingly, petitioner has not submitted the foreign priority claim in an acceptable form.

Based on the above, applicants have failed to satisfy the requirements for a grantable petition under 357 CFR 1.55(c) for acceptance of an unintentionally delayed foreign benefit claim.

DECISION

For the reasons set forth above, the petitions under 37 CFR 1.78(a)(3) and 1.55(c) are **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.

/George Dombroske/
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PCT Legal Examiner
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Boris Milef
PCT Legal Examiner
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SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Xiangdong Lin, et al.	:	
Application No. 11/676,927	:	DECISION ON PETITION
Filed: February 20, 2007	:	
Attorney Docket No. Sirf-144US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 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, November 23, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 24, 2010.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received August 12, 2010.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

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MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,900,225	:	
Lyon et al.	:	DECISION ON REQUEST
Issue Date: 03/01/2011	:	FOR RECONSIDERATION OF
Application No. 11/676,940	:	PATENT TERM ADJUSTMENT
Filed: 02/20/2007	:	
Atty Docket No.	:	
16113-134001/GP-872-00-US	:	

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed on April 29, 2011, which is treated as a request for reconsideration under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred seventy eight (378) 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 two hundred sixty (260) days.

Patentee asserts that the "B" delay period should be 118 days rather than 0 days, based on the time between the date of the mailing of the notice of allowance and the issuance of the patent.

Pursuant to 37 CFR 1.703(b)(1) the "B" delay period does not include 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. On February 12, 2010, a Request for Continued Examination was filed, prior to the day after the date three years after the date the application was filed. As the over three year period did not start until February 21, 2010, a date after the date the RCE was filed, the application is not entitled to any days of "B" delay. Consequently, the "B" delay period is 0 days.

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)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the

[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears

that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a

patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for 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).

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[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

In this instance, a request for continued examination was filed on February 12, 2010, and the patent issued by virtue of that request on March 1, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on February 12, 2010 and ending on March 1, 2011 is not included in calculating Office delay.

Accordingly, no change will be made to the patent term adjustment at the time of patent issuance.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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.

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SEP 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,900,225	:	
Lyon et al.	:	DECISION FOR REQUEST
Issue Date: March 1, 2011	:	FOR RECONSIDERATION
Application No. 11/676,940	:	OF PATENT TERM
Filed: February 20, 2007	:	ADJUSTMENT
Attorney Docket No.	:	
16113-134001/GP-872-00-US	:	

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed August 22, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from two hundred sixty (260) days to three hundred seventy-eight (378) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. 154(b) of 260 days. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. 704 and for purposes of seeking judicial review. See MPEP 1002.02.

BACKGROUND

On March 1, 2011, the above-identified application matured into U.S. Patent No. 7,900,225, with a revised patent term adjustment of 260 days. This revised determination included an entry of a

period of adjustment of 0 days pursuant to 37 CFR 1.702(b) for the Office taking in excess of three years to issue the patent.

On April 29, 2011, patentees filed a petition under 37 CFR 1.705(d) requesting that the patent term adjustment be reflected as 378 days. By decision mailed June 22, 2011, the request for reconsideration was dismissed and the patent term adjustment remained 260 days.

On August 22, 2011, patentees filed the present request for reconsideration. Patentees again dispute the calculation of the "B delay" period of the patent term adjustment. Specifically, patentees' state:

> Patentees submit that B Delay accumulated for a total of 374 days, beginning on February 21, 2010 (the day after the date that is three years after the date on which the application was filed), and ending March 1, 2011 (the date the patent was issued). The Office has excluded from B Delay the number of days corresponding to the period beginning on February 12, 2010 (the date on which a Request for Continued Examination was filed) and ending on March 1, 2011 (the date the patent was issued). However, this entire period should not be excluded from B Delay because it does not correspond exactly to continued examination. The Examiner's mailing of a Notice of Allowance Action mailed on November 4, 2010, closed examination of the application on that date. Section 154(b)(1)(B)(i) of Title 35 excludes from B Delay 'time consumed by continued examination of the application.' The statute does not provide for exclusion from B Delay of time from the mailing of a Notice of Allowance until issuance (a period during which continued examination did not occur).

"Response to Decision on Request for Reconsideration of Patent Term Adjustment" filed August 22, 2011, pp. 1-2.

STATUTE AND REGULATION

35 U.S.C. 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides that:

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[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

ADJUSTMENT OF PATENT TERM. —

(1) PATENT TERM GUARANTEES. —

(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —

(I) the date on which an application was filed under section 111(a) of this title; or

(II) the date on which an international application fulfilled the requirements of section 371 of this title;

(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review

by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled

the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[2]:

In pertinent part, 37 CFR 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under

---

[2] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the

national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[3]:

37 CFR 1.703(f) provides that:

The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this

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[3] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

Patentees' argument has again been considered, but is not persuasive. The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[4]. 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.

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[4] 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.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay"

that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the

statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[5]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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[5] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such

information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance.

Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See Blacklight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance

has been mailed. In fact, the request for examination procedures[6] permits 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 12, 2010, and the patent issued by virtue of that request on March 1, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on February 12, 2010, and ending on March 1, 2011, is not included in calculating Office delay. In view thereof, it is concluded that the patent term adjustment of 260 days is correct.

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[6] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). As this request pertains only to the over 3-year delay issue previously raised in the application for patent term adjustment, no additional fees are required. The $200.00 fee submitted with the subject petition is therefore unnecessary and will be credited to counsel's deposit account.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3211.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey B. Rhoads	:	
Application No. 11/676,942	:	ON REQUEST FOR
Filed: February 20, 2007	:	RECONSIDERATION OF
Attorney Docket Number: 098888-1978	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 23, 2011. Applicant believes that the PTA should be accorded an additional two hundred eighteen (218)days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 **four hundred thirty-eight (438) 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111123-A

DATE : November 23, 2011

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,859,798

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 Young/
Supervisory Patent Examiner, Art Unit 2627

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN DIEGO CA 92121

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Rashid Ahmed Akbar Attar et al	:	
Application No. 11/676,981	:	DECISION GRANTING PETITIONS
Filed: February 20, 2007	:	
Attorney Docket No. 070798	:	

This is a decision on the petitions filed May 27, 2011, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), and a petition under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance and Fee(s) Due mailed December 14, 2010, is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 27, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

[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 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the currently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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OCT 12 2010

OFFICE OF PETITIONS

SEATTLE GENETICS, INC.
21823 30TH DRIVE SE
BOTHELL WA 98021

In re Patent No. 7,750,116
Issued: July 6, 2010
Application No. 11/677,029
Filed: February 20, 2007
Dkt. No.: 1000-00911US

: DECISION ON PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition filed on September 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 314 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 314 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 **314** days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,750,116

DATED : July 6, 2010 **DRAFT**

INVENTOR(S) : Doronina, 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 190 days

Delete the phrase "by 190 days" and insert – by 314 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BRUNDIDGE & STANGER, P.C.
2318 MILL ROAD, SUITE 1020
ALEXANDRIA VA 22314

MAILED
OCT 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Y. NAKAO et al.	:	RESPONSE TO APPLICANT
Application No. 11/677,216	:	
Filed: February 21, 2006	:	
Attorney Docket No. MEI-5721	:	

This is in response to the petition filed July 22, 2010, requesting "the transfer of the Letter Claiming Right of Priority (Letter) and certified priority document filed on March 6, 2007 in U.S. Application No. 11/671,216 be transferred to the Image File Wrapper of the present application."

After a careful review of the request included with the petition it has been determined that the submission of March 6, 2007, filed in the Application 11/671, 216, had sufficient information thereon to be associated with the instant application. In view thereof and as consistent with the Office policy set forth in MPEP § 724.05 (III), the document identified in the instant request has been transferred to the Image File Wrapper of the instant application.

Petitioner may request a refund of the $400 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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
James R. HANSEN	:	
Application No. 11/677,279	:	DECISION GRANTING PETITION
Filed: February 21, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **11333-011002**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 24, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

Cc: **FISH & RICHARDSON, PC**
225 FRANKLIN STREET
BOSTON, MA 02110

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
NOV 16 2010
OFFICE OF PETITIONS

In re Application of :
James R. Hansen :
Application No.: 11/677,279 : ON PETITION
Filed: February 21, 2007 :
Attorney Docket No.: 11333-011002 :

This is a decision on the petition, filed November 15, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by a patent practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Paul A. Pyaher appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Pyaher desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Pyaher; however, until otherwise instructed, any further correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 3, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[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.*

The application is being referred to Technology Center AU 2627 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

cc: PAUL A. PYAHER
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/28/11

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 11677283 Patent No.: 7874819

CofC mailroom date: 04/19/11

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
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

5/2/11

SPE 3746

Art Unit 3746

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
MAR 17 2011
OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
Gerard CHAUVEL et al.	:	DECISION GRANTING PETITION
Application No. 11/677,367	:	UNDER 37 CFR 1.137(b)
Filed: February 21, 2007	:	
Atty. Docket No.: TI-60844	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to nonfinal Office action mailed April 30, 2010 ("outstanding Office action"), which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application thus became abandoned on July 31, 2010, and a Notice of Abandonment was mailed December 2, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $1620.00, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and

petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 2183 for further action on the filed Response.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEAGER TUFTE & WICKHEM, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

MAILED
APR 02 2012
OFFICE OF PETITIONS

In re Application of	:	
Abhijeet B. Joshi	:	
Application No. 11/677,427	:	DECISION ON PETITION
Filed: February 21, 2007	:	TO WITHDRAW
Attorney Docket No. 9889	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 25, 2012.

The request is **APPROVED**.

A review of the file record indicates that Katharina W. Schuster: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Katharina W. Schuster has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Katharina W. Schuster
Sprinkle IP Law Group
1301 W. 25th St., Suite 408
Austin TX 78705

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 06/30/11

TO SPE OF : ART UNIT: **3612 Attn: DAYOAN DARRELL (GLENN) G (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/677558 Patent No.: 7618081

CofC mailroom date: 12/28/09

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check Abstract & Specifications

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3612
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7869658 B2
Application No: 11/677617
Inventor(s) : Andrew C. Blose et al.
Issued : 01/11/2011
Title : REPRESENTATIVE IMAGE SELECTION BASED ON HIERARCHICAL CLUSTERING
Attorney Docket No.: 92804RLW

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

The correction requires deleting the filing date Oct. 6, 2006 of provisional app. 60/828,494 which contradicts the continuity data on file of the app. 11/677617.

In view of the foregoing, your request is hereby denied.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificate of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 02/10/2011

Address: Raymond L. Owens
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

ts/md

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AUG 30 2010

OFFICE OF PETITIONS

HDLS Patent & Trademark Services
P.O. BOX 220746
CHANTILLY VA 20153-0746

Patent No. 7,503,683	:	
Issue Date: March 17, 2009	:	
Application No. 11/677,626	:	ON PETITION
Filed: February 22, 2007	:	
Attorney Docket No. OP-096000019	:	

This is a decision on the renewed petition filed June 29, 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.

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
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
APR 16 2012
OFFICE OF PETITIONS

SNR DENTON US LLP
P.O. BOX 061080
CHICAGO IL 60606-1080

In re Application of	:	
Yamaguchi et al	:	
Application No. 11/677,645	:	DECISION ON PETITION
Filed: February 22, 2007	:	
Attorney Docket No. 09792909-6870	:	

This is a decision on the petition under 37 CFR 1.182, filed February 29, 2011, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The Office is in receipt of the $400.00 petition fee

This application is being referred to the Office of Data Management for further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
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
11/677,645	02/22/2007	2892	3150	09792909-6870	20	11

CONFIRMATION NO. 1299

CORRECTED FILING RECEIPT

26263
SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

OC000000053730398

Date Mailed: 04/16/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Tetsuji Yamaguchi, Kanagawa, JAPAN;
Yasushi Maruyama, Kanagawa, JAPAN;
Takashi Ando, Kanagawa, JAPAN;
Susumu Hiyama, Kanagawa, JAPAN;
Yuko Ohgishi, Tokyo, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number 26263

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
JAPAN P2006-048173 02/24/2006
JAPAN P2007-025807 02/05/2007

If Required, Foreign Filing License Granted: 03/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/677,645**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

A SOLID-STATE IMAGING DEVICE FOR INHIBITING DARK CURRENT

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SelectUSA

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage, facilitate, and accelerate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/06/10

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11677685 Patent No.: 7745177

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:

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

Robert B. M
SPE

1652
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

Date: 08/18/11

Patent No. : 7745177 B2
Ser. No. : 11/677,685
Inventor(s) : **Kim , et al.**
Issued : **June 29, 2010**
Title : Method for manufacturing xylitol with high-yield and high-productivity
Docket No. : **22029-003001**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

LMN

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.
11/677,715	02/22/2007	Akira SAKAI	303841US2	1420

22850 7590 12/01/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
TORRES WILLIAMS, MELANIE

ART UNIT	PAPER NUMBER
3657	

NOTIFICATION DATE	DELIVERY MODE
12/01/2011	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.

NOV 30 2011

OBLON, SPIVAK, McCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of:	:	
SAKAI, Akira	:	
Application No. 11/677,715	:	**DECISION ON PETITION**
Filed: February 22, 2007	:	**UNDER 37 CFR 1.181**
For: VEHICLE CONTROL APPARATUS AND VEHICLE CONTROL METHOD	:	

This is a decision in response to the petition under 37 CFR 1.181(a)(3) received March 10, 2011.

The petition is **DISMISSED as moot.**

Applicant "petitions the Commissioner to invoke his supervisory authority to compel the Examiner to consider Document (AO) cited in the Information Disclosure Statement filed on June 8, 2009."

A review of the prosecution history shows that on May 2, 2011 a miscellaneous communication was mailed to the Applicant which included a PTO-1449 initialized by the examiner. Accordingly, the examiner has considered Document (AO) cited in the IDS filed June 8, 2009.

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

David Talbott, Director
Technology Center 3600
(571) 272-5150

DT/tl: 11/23/11

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe CA 92067-1389

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of
Harris
Application No. 11/677,739
Filed: February 22, 2007
Attorney Docket No. PAGEENCRYPTION-C1

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Mail Date: 08/05/2010

Applicant	: Corey METSKER	: DECISION ON REQUEST FOR
Patent Number	: 7659701	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/677,812	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **419** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 22 2011
OFFICE OF PETITIONS

NATIONAL STARCH LLC
PATENT DEPT. KAREN KAISER
10 FINDERNE AVENUE
BRIDGEWATER NJ 08807-0500

In re Application of	:	
Ralph M. TRKSAK	:	
Application No. 11/677,892	:	NOTICE
Filed: February 22, 2007	:	
Attorney Docket No. **3237.NTR**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 March 21, 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.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **KENT BALDAUF**
THE WEBB LAW FIRM
436 SEVENTH AVE
700 KOPPERS BUILDING
PITTSBURGH PA 15219

UNITED STATES 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 17,2011

In re Application of :

Brad Sharp

Application No : 11677975

Filed : 22-Feb-2007

Attorney Docket No : P400783

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed October 17,2011

The request is **APPROVED**

The request was signed by Alexander R. Schlee (registration no. 55912) on behalf of all attorneys/agents associated with Customer Number 46155 . All attorneys/agents associated with Customer Number 46155 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 24955 .

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	11677975
Filing Date	22-Feb-2007
First Named Inventor	Brad Sharp
Art Unit	3733
Examiner Name	STEVEN COTRONEO
Attorney Docket Number	P400783
Title	TISSUE RETRACTOR, TISSUE RETRACTOR KIT AND METHOD OF USE THEREOF

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 46155

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 24955

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Alexander R. Schlee/
Name	Alexander R. Schlee
Registration Number	55912

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SNR DENTON US LLP
P.O. Box 061080
Chicago, IL 60606-1080

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Syed Muhammad Ziaduddin, et al.	:	
Application No. 11/677,982	:	DECISION ON PETITION
Filed: February 22, 2007	:	TO WITHDRAW
Attorney Docket No. 1200010-0018	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Tarek N. Fahml on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 26, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **STREAMING NETWORKS**
1765 Scott Boulevard, Suite 110
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/677,982	02/22/2007	Syed Muhammad Ziauddin	12000010-0018

CONFIRMATION NO. 1899

POWER OF ATTORNEY NOTICE

26263
SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

OC000000051618022

Date Mailed: 12/21/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/13/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BORDEN LADNER GERVAIS, LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA **CANADA**

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of
Jessie Y. Shen , et. al.
Application No. 11/678,100
Filed: February 23, 2007
Attorney Docket No. PAT 62962-2 US

DECISION ON PETITION
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed July 23, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant[1].

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Medtrode Inc.
700 Collip Circle, Suite 116
London ON N4G 4X8 **CANADA**

[1] This application is abandoned by operation of the law for failure to respond to the Office action mailed on January 14, 2010.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : September 8, 2010

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No/11/678127 /pat. 7741055

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: _____

/J Stucker/ 1649

SPE **Art Unit**

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GENERAL ELECTRIC COMPANY
GE GLOBAL PATENT OPERATION
2 CORPORATE DRIVE, SUITE 648
SHELTON, CT 06484

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JUN 14 2011

OFFICE OF PETITIONS

In re Application of
Mikhail Meltser, et al.
Application No. 11/678,211
Filed: February 23, 2007
Attorney Docket No.: 216854 (36708-17)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 3, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 17, 2011, as required by the Notice of Allowance and Fee(s) Due mailed November 17, 2010. The issue and publication fees were submitted on February 18, 2011. Accordingly, a Notice of Abandonment was subsequently mailed on March 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 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

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	11678253
Filing Date	23-Feb-2007
First Named Inventor	Kelly Slough
Art Unit	3682
Examiner Name	ARTHUR DURAN
Attorney Docket Number	046185-0117
Title	INTERSTITIAL ADVERTISING IN A GAMING ENVIRONMENT

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 23524

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

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	DOUBLE FUSION INC.
Address	2434 MAIN STREET SUITE 202
City	SANTA MONICA
State	CA
Postal Code	90405
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Hunter, Paul/
Name	Hunter, Paul
Registration Number	44787

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 27, 2011

In re Application of :

Kelly Slough

Application No : 11678253

Filed : 23-Feb-2007

Attorney Docket No : 046185-0117

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 27, 2011

The request is **APPROVED.**

The request was signed by Hunter, Paul (registration no. 44787) on behalf of all attorneys/agents associated with Customer Number 23524 . All attorneys/agents associated with Cusotmer Number 23524 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	DOUBLE FUSION INC.
Name2	
Address 1	2434 MAIN STREET
Address 2	SUITE 202
City	SANTA MONICA
State	CA
Postal Code	90405
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
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

MAILED
NOV 05 2010
OFFICE OF PETITIONS

Patent No. 7,690,851
Application No. 11/678,352
Filed: February 23, 2007
Issued: April 6, 2010
Attorney Docket No. P/1689-153 V2897

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission filed September 15, 2010, under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 22 2010

OFFICE OF PETITIONS

WHITHAM, CURTIS & CHRISTOFFERSON
& COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

In re Patent No. 7,791,321	:	
Issue Date: September 7, 2010	:	
Application No. 11/678,356	:	NOTICE
Filed: February 26, 2007	:	
Attorney Docket No. 01640566AA	:	

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED
JAN 06 2011
OFFICE OF PETITIONS

In re Application of
Hideko Fukushima
Application No. 11/678,391
Filed: February 23, 2007
Attorney Docket No.: Q99869

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1784 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning the status of the application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/678,391	02/23/2007	1784	1000	Q99869	11	1

CONFIRMATION NO. 1732

CORRECTED FILING RECEIPT

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Date Mailed: 01/04/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)
Hideko Fukushima, Saitama-ken, JAPAN;

Assignment For Published Patent Application
HITACHI METALS, LTD., Tokyo, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 23373

Domestic Priority data as claimed by applicant
This application is a CON of 10/845,257 05/14/2004 PAT 7,282,265

Foreign Applications
JAPAN 2003-138121 05/16/2003

If Required, Foreign Filing License Granted: 01/03/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/678,391**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COMPOSITE MATERIAL, HAVING HIGH THERMAL CONDUCTIVITY AND LOW THERMAL EXPANSION COEFFICIENT, AND HEAT-DISSIPATING SUBSTRATE, AND THEIR PRODUCTION METHODS

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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

FEB 28 2011

OFFICE OF PETITIONS

Patent No. 7,693,056	:	
Issue Date: April 6, 2010	:	
Application No. 11/678,481	:	ON PETITION
Filed: February 23, 2007	:	
Attorney Docket No. 303338US28	:	

This is a decision on the petition filed December 21, 2010, under 37 CFR 3.81(b) to correct the assignee name 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.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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CHARLES MURPHY
PO BOX 2985
CRESTLINE CA 92325

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Charles Murphy	:	
Application No. 11/678,545	:	ON PETITION
Filed: February 23, 2007	:	
Attorney Docket No. CMUR.001A	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 15, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed February 4, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on May 5, 2010. The Office mailed a Notice of Abandonment on September 14, 2010.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to Group Art Unit 3612 for consideration of the Amendment, filed November 15, 2010.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Erich Karich
2807 St. Mark Drive
Mansfield, Texas 76063

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United States Patent and Trademark Office
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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS, CO 80525

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Gary R. Trott	:	
Application No. 11/678,708	:	DECISION ON PETITION
Filed: February 26, 2007	:	
Attorney Docket No. 10060419-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 June 2, 2010, as required by the Notice of Allowance and Fee(s) Due mailed March 2, 2010. Accordingly, the application became abandoned on June 3, 2010. A Notice of Abandonment was mailed July 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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 Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/678,714	02/26/2007	Kimiko Isono	520.47251X00	2398

20457 7590 07/18/2011
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER
LEACH, ERIN MARIE BOYD

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
07/18/2011	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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JUL 1 8 2011

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of ISONO et al. Application No. 11/678,714 Filed: February 26, 2007 For: REACTOR POWER CONTROL APPARATUS OF NATURAL CIRCULATION REACTOR, GENERATION SYSTEM OF NATURAL CIRCULATION REACTOR AND METHOD FOR CONTROLLING REACTOR POWER OF NATURAL CIRCULATION REACTOR	: : : : : : :	DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR § 1.181

This is in response to applicants' petition under 37 CFR § 1.181 filed May 17, 2011 requesting withdrawal of the finality of the Office action mailed May 3, 2011 as being premature.

The petition is **GRANTED.**

Petitioner argues that the new grounds of rejection made in the final Office action is based upon the addition of new prior art which was not of record and that the amendment to the claims, which resulted in the new grounds of rejection, was based upon the examiner's suggestion and does not change the scope of the previous claim language. Accordingly, the finality is premature.

A review of the prosecution history shows that in a non-final Office mailed October 19, 2010, the examiner rejected claims 2-10, 13 and 15 under 35 USC 112, second paragraph, as being indefinite. Specifically, the Office action indicates that claim 3 recites an inlet pipe having another steam control valve but only recites one steam control valve in the inlet pipe. And thus it is unclear whether one or more steam control valve is being claimed. The Office action further indicates that "[f]or the purpose of examination, the Examiner understands that there is one steam control valve being claimed in the inlet pipe" and suggested that the claim be changed from "another steam control valve" to "a steam control valve."

In a response filed April 19, 2011, the recitation "an inlet pipe having another steam control valve installed therein" was amended to recite "an inlet pipe having a steam control valve installed therein," as suggested by the examiner. Additionally, later recitations of "said another stem control valve" was changed to "said control valve installed in said inlet pipe" to be consistent with the earlier amendment. Since the examiner had considered that there is one steam control valve being claimed, the scope of the claim is unchanged with the amendment.

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 scope of claim 3 is unchanged, the new grounds of rejection can not be considered to be necessitated by amendment. Accordingly, the finality of the Office action, but not the action itself, is hereby withdrawn. The May 3, 2011 Office action 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.

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5350

KM/tl: 07/13/11
TL

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/678,714	02/26/2007	Kimiko Isono	520.47251X00	2398

20457 7590 03/07/2012
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER
LEACH, ERIN MARIE BOYD

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
03/07/2012	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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MAR -7 2012

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of ISONO et al. Application No. 11/678,714 Filed: February 26, 2007 For: REACTOR POWER CONTROL APPARATUS OF NATURAL CIRCULATION REACTOR, GENERATION SYSTEM OF NATURAL CIRCULATION REACTOR AND METHOD FOR CONTROLLING REACTOR POWER OF NATURAL CIRCULATION REACTOR	:	DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR § 1.181

This is in response to applicants' petition under 37 CFR § 1.181 filed January 13, 2012 requesting withdrawal of the finality of the Office action mailed January 4, 2012 as being premature.

Petitioner argues that the new grounds of rejection made in the final Office action is based upon the addition of new prior art which was not of record, and that, although an amendment to the claims were made, the new reference was not applied to the recitation which was amended. Thus the final rejection is improper, and applicant requests the withdrawal of finality.

The petition is **GRANTED.**

A review of the prosecution history shows that a non-final Office action was mailed May 3, 2011.[1] In the Office Action, claims 2-10, 13 and 15 were rejected under 35 USC 103(a) as being unpatentable over Akiyama et al. in view of either Itou et al or Luongo, and further in view of Hidaka. As indicated in the Office action, both Itou and Luongo teach a moisture separation heater; an inlet pipe having a steam control valve installed therein, connected to a main steam pipe, and connected to the moisture separation heater; and a pressure control apparatus. Hidaka was applied for its teaching of a natural circulation reactor that naturally circulates coolant internally. In a response filed November 2, 2011, applicant amended the sixth clause of claim 3, for example, to make

[1] The May 3, 2011 Office action originally was mailed as a Final Office Action. However, the finality of the Office action was withdrawn in accordance with a petition decision mailed July 18, 2011.

a distinction between the two steam control valves claimed. On January 4, 2012, the examiner issued a final Office action in which claims 2-10, 13 and 15-24 are rejected under 35 USC 103(a) as being unpatentable over Akiyama in view of Luongo and further in view of either Hidaka or Tang.

The examiner dropped the Itou reference; however, Luongo was maintained since it taught the distinction between the two steam control valves, as amended. The new reference to Tang was applied for its teaching of "a natural circulation reactor that naturally circulates coolant internally." A review of claim 3 prior to amendment and after amendment shows that the recitation of "a natural circulation reactor configured to generate steam by naturally circulating coolant internally" remained unchanged. Accordingly, the amendment to claim 3 directed to the two steam control valve did not necessitate the introduction of the Tang reference.

MPEP 706.07(a) sets forth that any "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." Since the amendatory changes to independent claim 3, for example, were directed to the steam control valves and not the circulation reactor, clearly the new grounds of rejection, based on the introduction of the new Tang reference, was not necessitated by amendment. Therefore, the finality of the January 4, 2012 Office action is premature and the finality is hereby withdrawn. **The January 4, 2012 Office action 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.**

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Kathy Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5350

KM/tl: 01/24/12

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SCHLUMBERGER TECHNOLOGY CORPORATION
DAVID CATE
IP DEPT. WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND TX 77478

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Alexander Zazovsky et al	:	
Application No. 11/678,738	:	DECISION ON PETITION
Filed: February 26, 2007	:	
Attorney Docket No. 56.0775DIV	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed September 14, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA, INC.
Penny Tomko
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In Re application of
Surong Zeng et al.
Application No. 11/678,823
Filed: February 26, 2007
Attorney Docket No. CM10570AHN

ON PETITION

This is a decision on the petition to Expunge Materials Submitted, filed August 10, 2010, which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that an amendment filed under EFS ID 8182430, filed August 9, 2010 be expunged from the record. Petitioner states these papers were erroneously filed in the wrong application and do not pertain to the above identified patent application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

The application is being returned to Technology Center Art Unit 2617.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **1-17-12**

TO SPE OF : ART UNIT **2854**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11678837** Patent No.: **8061913**

CofC mailroom date: 1-4-12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-E
Palm Location 7580

Note:

Omega Lewis

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Approved. All changes apply.

/Judy Nguyen/

SPE **2854 Art Unit**

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HARRIS CORPORATION
C/O FOX ROTHSCHILD, LLP
997 LENOX DRIVE
BUILDING 3
LAWRENCEVILLE NJ 08543-5231

MAILED
AUG 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Moffatt et al.	:	
Application No. 11/678,847	:	DECISION ON PETITION
Filed: February 26, 2007	:	
Attorney Docket No. 7162-0208 75449.00010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 18, 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 7, 2010, as required by the Notice of Allowance and Fee(s) Due mailed March 5, 2010. Accordingly, the date of abandonment of this application is June 8, 2010. A Notice of Abandonment was mailed July 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 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.

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

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OFFICE OF PETITIONS

WHITHAM, CURTIS & CHRISTOFFERSON
& COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

In re Patent No. 7,602,159	:	
Issue Date: October 13, 2009	:	
Application No. 11/678,864	:	NOTICE
Filed: February 26, 2007	:	
Attorney Docket No. 01640585AA	:	

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Charles James Peter Humpoletz et al.	:	
Application No. 11/678,993	:	DECISION ON PETITION
Filed: November 1, 2007	:	TO WITHDRAW
Attorney Docket No. 1601-006-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 August 30, 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 Richard Neifeld on behalf of all attorneys/agents associated with customer number 31518. All attorneys/agents associated with customer number 31518 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: I.S.G. Thermal Systems Limited
Integrated House, Respton Court
Repton Close
Basildon, United Kingdom 5512ILN

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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
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/678,993	02/26/2007	Charles James Peter Humpoletz	MART0010U-US

CONFIRMATION NO. 2834

POWER OF ATTORNEY NOTICE

31518
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

OC000000049662763

Date Mailed: 09/02/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2011.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111004

DATE : October 04, 2011

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 8,010,931

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:

/JACK CHIANG/
Supervisory Patent Examiner.Art Unit 2825

11/678,994

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111004

DATE : October 04, 2011

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 8,010,931

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:

/JACK CHIANG/
Supervisory Patent Examiner.Art Unit 2825

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
Rofougaran :
Application No. 11/679,003 : ON APPLICATION FOR
Filed: February 26, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. **18199US01** :

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 November 23, 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-nine (1,039) days, not six hundred and eighty-four (684) 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

Commissioner for Patents
United States Patent and Trademark Office
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KACVINSKY DAISAK PLLC
4500 Brooktree Raod
Suite 302
Wexford PA 15090

MAILED
AUG 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Edwin James Harris, et al.	:	
Application No. 11/679,064	:	DECISION ON PETITION
Filed: February 26, 2007	:	
Attorney Docket No. 1511L0131XD	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 2, 2010. Accordingly, the date of abandonment of this application is July 3, 2010. The Notice of Abandonment was mailed July 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,520 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P.
Attn: MN IP Docket
600 Congress Avenue
Suite 2400
Austin TX 78701

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert Windisch	:	
Application No. 11/679,103	:	DECISION ON PETITION
Filed: February 26, 2007	:	
Attorney Docket No. **KOOL.P0002US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2011, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 20, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed
March 20, 2008. Accordingly, the date of abandonment of this application is June 21, 2008.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Frederick W. Haase
670 Barcelona Court
Satellite Beach, FL 32937

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Pramila Srinivasan et al.	:	DECISION ON PETITION
Application No. 11/679,108	:	TO WITHDRAW
Filed: February 26, 2007	:	FROM RECORD
Attorney Docket No. **57159-8019.US01**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

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

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GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of
Russell A. Houser, et al.
Application No. 11/679,182
Filed: February 27, 2007
Attorney Docket No. 120057-010110/US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Greenberg Traurig, LLP (SV) has been revoked by the assignee of the patent application on October 4, 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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY NC 27518

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Fares Jaoude et al	:	
Application No. 11/679,199	:	DECISION GRANTING PETITION
Filed: February 27, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2867-512	:	

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 October 4, 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 2858 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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WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY NC 27518

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Troy Stockstad et al	:	
Application No. 11/679,201	:	DECISION GRANTING PETITION
Filed: February 27, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2867-513	:	

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 October 4, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MAILED

AUG 15 2011

OFFICE OF PETITIONS

Steven F. Weinstock
Abbott Laboratories
D-377/AP6D
100 Abbott Park Road
Abbott Park IL 60064-3500

In re Patent No. 7,968,707	:	DECISION ON REQUEST
Sham, et al.	:	FOR
Issue Date: June 28,2011	:	RECONSIDERATION OF
Application No.11/679,227	:	PATENT TERM ADJUSTMENT
Filed: February 27, 2007	:	and
Atty Docket No.584USC1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 1, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred and forty-four (444) 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 four hundred and forty-four (444) 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, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges receipt of the fee under 37 CFR 1.18(e). No additional fees are due.

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 four hundred and forty-four (444) 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 : 7,968,707 B2

DATED : Jun. 28, 2011

INVENTOR(S) : Sham, 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 (408) days

Delete the phrase "by 408 days" and insert – by 444 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
DEC 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Philippe J. Satori et al.	:	
Application No. 11/679,272	:	DECISION ON PETITION
Filed: February 27, 2007	:	
Attorney Docket No. CML03769M	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed March 8, 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 April 9, 2010. A Notice of Abandonment was mailed on October 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election and amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the election and 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 2611 for appropriate action by the Examiner in the normal course of business on the reply received November 9, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OLAF VANCURA
3003 RED ARROW DRIVE
LAS VEGAS, NV 89135

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Olaf Vancura	:	
Application No. 11/679,410	:	DECISION ON PETITION
Filed: February 27, 2007	:	
Attorney Docket No. 1788/3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 28, 2010. Accordingly, the date of abandonment of this application is January 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquires concerning this application should be directed to the Office of Data Management at 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TYSON J. WILDE
NOVATEK INTERNATIONAL, INC.
2185 SOUTH LARSEN PARKWAY
PROVO UT 84606

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Hall et al.	:	
Application No. 11/679529	:	
Filing or 371(c) Date: 02/27/2007	:	LETTER
Attorney Docket Number: 85.0122	:	

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEORGE S. LEVY
3980 DEL MAR MEADOWS
'SAN DIEGO, CA 92130

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of
ABRAHAM JACOB SACKS ET AL.
Application No. 11/679,562
Filed: February 27, 2007
Attorney Docket No. **830102.402**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed March 2, 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 44794 has been revoked by the applicants of the patent application on June 15, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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	11679598
Filing Date	27-Feb-2007
First Named Inventor	Dunmin Zheng
Art Unit	2474
Examiner Name	VINNCELAS LOUIS
Attorney Docket Number	9301-182
Title	SYSTEMS, METHODS AND TRANSCEIVERS FOR WIRELESS COMMUNICATIONS OVER DISCONTIGUOUS SPECTRUM SEGMENTS

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	/David C. Hall/
Name	David C. Hall
Registration Number	38904

UNITED STATES 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 26,2011

In re Application of :

Dunmin Zheng

Application No : 11679598

Filed : 27-Feb-2007

Attorney Docket No : 9301-182

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed May 26,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

MAILED
APR 07 2011
OFFICE OF PETITIONS

In re Application of	:	
ELDERKIN, David F. et al.	:	
Application No. 11/679,616	:	DECISION ON PETITION
Filed: February 27, 2007	:	TO WITHDRAW
Attorney Docket No. **419.1005**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 09, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer Number 58249 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the 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: **MICHAEL N. MERCANTI**
LUCAS & MERCANTI
475 PARK AVENUE SOUTH
NEW YORK NY 10016

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): 11/679,624	Patent Number (if applicable):
First Named Inventor: Suzuki	Title of Invention: MOISTURIZED NONWOVEN FABRIC

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as “Office communication”) is outstanding on March 11, 2011.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
   a. The maintenance fee payment was required to have been paid after March 10, 2011.
   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).
   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature /Roger C. Hahn/	Date 04/18/2011
Name (Print/Typed) Roger C. Hahn	Practitioner Registration Number 46,376

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of _____ forms are submitted.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HAHN & VOIGHT PLLC
1012 14TH STREET, NW
SUITE 620
WASHINGTON DC 20005

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Suzuki et al.	:	
Application No. 11/679,624	:	DECISION ON PETITION
Filed: February 27, 2007	:	
Attorney Docket No. TS-101	:	

This is a decision on the request filed April 18, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 20, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1786 for re-mailing the Office action of January 20, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Townsend and Townsend and Crew LLP /Pulmonx 017534
Two Embarcadero Center, Eighth Floor
San Francisco CA 94111-3834

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
John g. McCutcheon et al.	:	
Application No. 11/679,635	:	DECISION ON PETITION
Filed: February 27, 2007	:	TO WITHDRAW
Attorney Docket No. **017534-006510US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 17, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request is not approved because the practitioner(s) lacks items (1) (2) and (3) certifications mention above that is required under 37 CFR 10.40. It is also noted, that the request failed to list a correspondence address for either the first named inventor or the assignee of record. Therefore, the request can not be granted at this time we strongly encourage petitioner to use the enclosed Request for Withdrawal as Attorney or Agent and Change of Correspondence Address form PTO/SB/83.

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
Petitions Examiner
Office of Petitions

Attachment: Blank Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (PTO/SB/83) form

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	11679655
Filing Date	27-Feb-2007
First Named Inventor	Leo Nelli
Art Unit	1785
Examiner Name	BETELHEM SHEWAREGED
Attorney Docket Number	024010-9204-US01
Title	COLORED PAPER AND SUBSTRATES COATED FOR ENHANCED PRINTING PERFORMANCE

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

○ A joint inventor; all of whom are signing this e-petition

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/anne m reynolds/
Name	Anne M. Reynolds
Registration Number	65455

UNITED STATES 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 4,2011

In re Application of :

Leo Nelli

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11679655

Filed : 27-Feb-2007

Attorney Docket No : 024010-9204-US01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed November 4,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 1785 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MEDTRONIC
ATTN: NOREEN C,JOHNSON IP LEGAL DEPARTMENT
2600 SOFAMOR DANEK DRIVE
MEMPHIS TN 38132

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Heinz	:	
Application No. 11/679,694	:	ON PETITION
Filed: February 27, 2007	:	
Attorney Docket No. P0026880.00	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed November 9, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed April 2, 2010, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on June 23, 2010. However, the Examiner mailed an Advisory Action on July 7, 2010, stating that the Amendment would not be entered because it failed to place the application in condition for allowance. Applicant filed another reply on September 13, 2010, made timely by obtaining a three month extension of time. The Examiner mailed another Advisory Action on October 6, 2010. No further proper reply having been received, the application became abandoned on October 3, 2010. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3775 for consideration of the RCE, filed November 9, 2010.

Telephone inquiries concerning this decision 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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COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Application of
John Malcolm Macgregor
Application No. 11/679,763
Filed: February 27, 2007
Attorney Docket No. BOBJ-138/00US 304661-2262

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

Petitioner should note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, since the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office, the request cannot be granted at the present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS SA
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE, LTD
BUSINESS OBJECTS DATA INTEGRATION, INC.
777 6TH STREET, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON, DC 20001

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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GLOBAL PATENT GROUP - GLM
1005 WARSON ROAD
SUITE 201
ST. LOUIS, MO 63132

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Application of	:	
David E. Weinstein	:	
Application No. 11/679,764	:	DECISION ON PETITION
Filed: February 27, 2007	:	
Attorney Docket No. GLM0007-201-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the publication fee on or before July 6, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 6, 2010. Accordingly, the application became abandoned on July 7, 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 publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/19/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/679,775 Patent No.: 7919626 B2

CofC mailroom date: 05/10/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes to claim 1 appear valid. In the oath, application data sheet, and bibliographic data sheet, the city of residence of Alan P. Kaplan is Kings Park, not San Diego. For this reason I am not sure if the entire COC can be processed.

_____ **SPE** _____ **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Jason Ashton	:	
Application No. 11/679,801	:	DECISION ON PETITION
Filed: February 27, 2007	:	
Attorney Docket No. **026858-000210US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 22, 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 October 23, 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 response to the Office action, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an

inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3689 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Michael L. Robbins
650 California Street, 14th Floor
San Francisco, CA 94108

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application of :
Jian Lu, et. al. :
Application No. 11/679,819 :
Filed: February 27, 2007 :
Attorney Docket No. 042118-0359853 :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed January 27, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address Information provided for the assignee of the entire interest *that 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 inventor. Therefore, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Vobile, Inc.
4699 Old Ironsides Drive
Suite 430
Santa Clara, CA 95054

[1] 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.

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Jian Lu, et. al.	:	
Application No. 11/679,822	:	DECISION ON PETITION
Filed: February 27, 2007	:	TO WITHDRAW FROM
Attorney Docket No. 042118-0359854	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed January 27, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address Information provided for the assignee of the entire interest *that 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 inventor. Therefore, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Vobile, Inc.
4699 Old Ironsides Drive
Suite 430
Santa Clara, CA 95054

[1] 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.

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
MAR 24 2011
OFFICE OF PETITIONS

In re Application :
Rofougaran :
Application No. 11/679,967 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: February 28, 2007 :
Dkt. No.: 18196US01 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed February 23, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 774 days, not 520 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e). As the fee is required, the request for refund is dismissed.

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 10, 2010

TO SPE OF : ART UNIT 2168

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/679973 Patent No.: 7814112

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Magdalene Talley

_____
Certificates of Correction Branch
(571)272-0XXX

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____ **SPE** TIM VO SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2100 **Art Unit** 2168

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Decision Date : July 12,2011

In re Application of :

Cornell Drajan

Application No : 11680140

Filed : 28-Feb-2007

Attorney Docket No : 5953

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 July 12,2011

The request is **APPROVED.**

The request was signed by Charles W. Fallow (registration no. 28946) on behalf of all attorneys/agents associated with Customer Number 26936 . All attorneys/agents associated with Cusotmer Number 26936 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	Cornell Drajan
Name2	
Address 1	976 Spicer Cove Road
Address 2	
City	Hendersonville
State	NC
Postal Code	28792
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	11680140
Filing Date	28-Feb-2007
First Named Inventor	Cornell Drajan
Art Unit	3641
Examiner Name	BENJAMIN LEE
Attorney Docket Number	5953
Title	Muzzle Break

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 26936

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	Cornell Drajan
Address	976 Spicer Cove Road
City	Hendersonville
State	NC
Postal Code	28792
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Charles Fallow/
Name	Charles W. Fallow
Registration Number	28946

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MAILED
AUG 30 2010
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In re Patent No. 7,646,824
Issued: January 12, 2010
Application No. 11/680,253
Filed: February 28, 2007
Attorney Docket No. 18204US01

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF USPTO RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH filed on June 7, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting correction of the patent term adjustment indicated on the above-identified patent.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

On April 29, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On May 5, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 131 days.

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by two (2) days in that the Office action response was filed on the first business day after a deadline falling on a weekend or holiday and thus was not late.

Applicant's arguments have been considered, but not found to be persuasive.

Rule 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in

> which case the period of adjustment set forth in § **1.703** shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A Notice of Allowance was mailed August 28, 2009 and the issue fee was therefore due on November 28, 2009. November 28, 2009 was a weekend and thus, the issue fee was received on November 30, 2009 which is three months and two days later. As such, a reduction of two days was assessed. Patentees have argued that this is improper, as November 28, 2009 fell on a weekend. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[1] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[2] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

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.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) .

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

---

[1] "With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

[2] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/680,270	02/28/2007	Laura Jane Gisser	669679-4	4944

27162 7590 05/02/2011
CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO
5 BECKER FARM ROAD
ROSELAND, NJ 07068

EXAMINER
MORGAN, EMILY M

ART UNIT	PAPER NUMBER
3677	

MAIL DATE	DELIVERY MODE
05/02/2011	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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APR 29 2011

CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO
5 BECKER FARM ROAD
ROSELAND NJ 07068

In re Application of	:	
Laura GISSER et al.	:	DECISION ON PETITION
Application No. 11/680,270	:	UNDER 37 CFR §1.181
Filed: February 28, 2007	:	
For: CLIP FOR AN ORNAMENTAL ITEM	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed November 9, 2010 requesting withdrawal of the Office action mailed on September 28, 2010, and a second petition filed concurrently to request a clarification of the status of the amendment to the specification and to withdraw the objection to the drawings.

The petition is **DISMISSED AS MOOT.**

Applicants allege that the January 3, 2008 Office action was ambiguous in that it is unclear whether the September 28, 2010 Office action is a final Office action. In addition, the examiner's statement that the amendment to the specification filed on May 25, 2010 was not accepted caused confusion and raised a question on how the subsequent amendment to the specification filed on September 2, 2010 would be accepted if the prior amendment of May 25, 2010 was not acceptable. Furthermore, applicants argue that the drawing objection was improper as the first and second arrays of claims 6, 7, 12 and 14 were shown in the drawings.

A review of the file record shows that a non-final Office action was mailed on June 7, 2010. Applicants filed a response on September 2, 2010 arguing the rejection and amending claims 3, 8, 16, 22 and 24. The examiner issued a final Office action on September 28, 2010. Applicants timely filed this petition on November 9, 2010. The examiner withdrew the September, 28 2010 final Office action and issued a non-final Office action on April 1, 2011. The fact that the drawing replacement sheet filed on February 14, 2011 was indicated as accepted, the drawing objection is considered vacated. As for the amendments to the specification, the fact that the amendments dated May 25, 2010, September 2, 2010 and February 28, 2011 have been entered and there is no indication in the April 1, 2011 Office action to the contrary, these amendments were apparently accepted.

As the corrective actions have been made, the issues raised in the petition are now moot.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at (571) 272-6867.

David Talbott, Director
Patent Technology Center 3600
Telephone No.: (571)-272-5150

lm: 4/27/11

LM

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/680,270	02/28/2007	Laura Jane Gisser	669679-4	4944

27162 7590 12/21/2011
CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO
5 BECKER FARM ROAD
ROSELAND, NJ 07068

EXAMINER
MORGAN, EMILY M

ART UNIT	PAPER NUMBER
3677	

MAIL DATE	DELIVERY MODE
12/21/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DEC 2 1 2011

Carella, Byrne, Cecchi, Olstein, Brody & Agnello
5 Becker Farm Road
Roseland, NJ 07068

In re Application of GISSER et al. Application No. 11/680,270 Filed: February 28, 2007 For: CLIP FOR AN ORNAMENTAL ITEM	DECISION ON PETITION REGARDING REQUEST TO WITHDRAWAL FINALITY UNDER 37 CFR §1.181

This is a decision on applicants' petition under 37 CFR 1.181 filed November 28, 2011 requesting withdrawal of the finality of the Office action mailed November 7, 2011.

The petition is **GRANTED.**

A review of the file record indicates that a final Office action was mailed June 2, 2011. An amendment under 37 CFR 1.116 was filed on August 26, 2011. However, the amendment was denied entry because the proposed amendment(s) "raise new issues that would require further consideration and/or search;" and a notice to that effect was mailed via an Advisory action on September 7, 2011. In response to the Advisory action, applicants filed a Request for Continued Examination (RCE) including a "substitute amendment [which] contains substantially the same subject matter as the not entered amendment filed on 8/26 and also subject matter responding to the Advisory Action." A final rejection was issued as a first Office action after RCE by the examiner on November 7, 2011.

As correctly pointed out by Petitioner, MPEP 706.07(b) sets forth that "it would not be proper to make final a first Office action in a continuing or substitute application >or an RCE< where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised." The RCE submission filed September 27, 2011 contains material which was presented earlier after final rejection but was denied entry because new issues were raised that required further consideration and/or search. Thus, it is improper to make the first Office action in an RCE final.

Accordingly, the finality of the Office action mailed November 7, 2011, *but not the action itself*, is hereby withdrawn. The Office action is now considered non-final and the

shortened statutory period for response continues to run THREE (3) MONTHS from the date of mailing of the Office action, i.e., three (3) months from November 7, 2011.

Summary: The petition is **GRANTED.**

Questions concerning this decision should be referred to Teri Luu, Quality Assurance Specialist, at (571) 272-7045.

David Talbott, Director
Patent Technology Center 3600
Telephone No.: (571)-272-5150

DT/tl: 12/13/11
TL

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KEVIN L. RUSSELL
CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP
1600 ODSTOWER
601 SW SECOND AVENUE
PORTLAND OR 97204

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of:
KEROFSKY ET AL.
Serial No.: 11/680,312
Filed: February 28, 2007
Attorney Docket No.: SLA2048

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 9, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 10, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1620.00; and (3) a statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 9, 2011 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2628 for processing of the amendment and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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CHICAGO IL 60661

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SEP 27 2010
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In re Application :
Rofougaran :
Application No. 11/680,370 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: February 28, 2007 :
Dkt. No.: 18205US01 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 14, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 852 days, not 549 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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SEP 24 2010
OFFICE OF PETITIONS

Kevin L. Daffer
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin TX 78767-0398

In re Application of
Campbell, et al.
Application No. 11/680,391
Filed: February 28, 2007
Attorney Docket No. 5500-48702

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 24, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the periods specified in 37 CFR 1.78(a)(5)(ii).

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 under 37 CFR 1.78(a)(3) lacks item (1) above.

The reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an

application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). The amendment submitted on renewed petition cannot incorporate by reference an application not incorporated by reference on filing of the application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet signed in compliance with 37 CFR § 1.33(b) or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Chris Bottorff
Supervisor
Office of Petitions

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Kevin L. Daffer
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin TX 78767-0398

MAILED
JAN 12 2011
OFFICE OF PETITIONS

In re Application of :
Campbell, et al. :
Application No. 11/680,391 : ON PETITION
Filed: February 28, 2007 :
Attorney Docket No. 5500-48702 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 4, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the periods specified in 37 CFR 1.78(a)(5)(ii).

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 under 37 CFR 1.78(a)(3) lacks item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain references to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application

(if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Chris Bottorff
Supervisor
Office of Petitions

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Kevin L. Daffer
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin TX 78767-0398

MAILED
MAY 27 2011
OFFICE OF PETITIONS

In re Application of :
Campbell, et al. :
Application No. 11/680,391 : ON PETITION
Filed: February 28, 2007 :
Attorney Docket No. 5500-48702 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 27, 2011, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on February 28, 2007, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 1700, Art Unit 1777 for appropriate action on the amendment filed April 27, 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 non-provisional application.

Chris Bottorff
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/680,391	02/28/2007	1777	1000	5500-48702	11	1

CONFIRMATION NO. 5157

CORRECTED FILING RECEIPT

Kevin L. Daffer
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, TX 78767-0398

OC000000047856782

Date Mailed: 05/24/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Mark A. Campbell, Bastrop, TX;
Phuong-Anh Tang, Austin, TX;
Gary R. Anderson, Austin, TX;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/366,441 08/03/1999 PAT 7,198,753

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: 03/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/680,391**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and Method for Monitoring and/or Controlling Attributes of Multiple Chemical Mixtures with a Single Sensor

Preliminary Class

436

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/680,397	02/28/2007	Jacob Pieter Mazereeuw	1458-004	5167

32905 7590 09/07/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
KUBELIK, ANNE R

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
09/07/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	
Jacob Pieter Mazereeuw	: PETITION DECISION
Serial No.: 11/680,397	
Filed: February 28, 2007	
Attorney Docket No.: **1458-004**	

This is in response to the petition under 37 CFR § 1.59(b), filed August 26, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105 submitted to the Patent Office on December 16, 2008 and August 19, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Paper No.

FOLEY & LARDNER LLP
VAREX PLAZA
150 E. GILMAN STREET
MADISON WI 53703

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OFFICE OF PETITIONS

In re Application of	:	
Cenk Kose	:	
Application No. 11/680,612	:	ON APPLICATION FOR
Filed: 02/28/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
088245-2618	:	

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 9, 2010. Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 773 days to 967 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Lundy, et al.
Application No. 11/680,672
Filed: 1 March, 2007
Attorney Docket No. 3837

DECISION ON PETITION

This is a decision on the petition filed on 1 March, 2007, pursuant to 37 C.F.R. §1.47.

NOTE:

It is noted that Petitioner appears not to have attended to this matter since the filing of the Petition in March 2007.

Petitioner is aware that matters of a petition, pursuant to 37 C.F.R. §1.47 are to be resolved prior to the commencement of prosecution. (*See*: *inter alia*, the guidance in the Commentary at MPEP §409.03.)

The petition as considered under 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 will be required.)

BACKGROUND

The record reflects as follows:

The application was deposited on 1 Marhc, 2007, without, *inter alia*, a fully executed oath/declaration

It appears that the Office did not mail a Notice of Missing Parts requiring, *inter alia*, a fully executed oath/declaration because the instant petition was filed concurrently with the deposit of the application.

On 1 March, 2007, Petitioner Richard A. Machonkin (Reg. No. 41,962) submitted, *inter alia*: a petition pursuant to 37 C.F.R. §1.47(a) with fee with statement, and with: an oath/declaration executed by co-inventors Lundy, Wingo and Lai for themselves and on behalf of non-signing inventor Daniel J. Cureton (Mr. Cureton). Petitioner set forth an address for the non-signing inventor and a showing that included letters evidencing transmission of the entire application (description, claims, abstract and drawings) to the non-signing inventor via Email and reply(ies) acknowledging receipt and readability; and thereafter a failure to reply to the application papers transmitted, as a form of constructive refusal to sign.

Thus Petitioner made a showing that the entire application (description, claims, abstract, drawings) was sent to the non-signing inventor and that the non-signing inventor constructively refused to sign the oath/declaration after having been presented with the entire application (specification: description, claims, abstract and drawings); and a statement of the last known address of the non-signing inventor with a showing of diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address. The showing presented of record indicates that the non-signing inventor constructively refused to sign.

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 constructively refused to sign.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

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).)

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. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DANIEL J. CURETON
74 P STREET NW
WASHINGTON, DC 20090

DANIEL J. CURETON
P.O. BOX 92222
WASHINGTON, DC 20090

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of
Lundy, et al.
Application No. 11/680,672
Filed: 1 March, 2007
Attorney Docket No. 3837

COMMUNICATION

Dear Daniel J. Cureton:

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 action(s) 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:
SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

[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

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 0370.0612C1	
Application Number: 11/680,722	Filing Date (or 371(b) or (f) Date): March 1, 2007
Patent Number: 7,664,188	Issue Date: February 16, 2010
First Named Inventor: Gregory G. Raleigh	
Title: Spatio-Temporal Processing for Communication	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 08/12/2010

Applicant	: Gregory G. Raleigh	: DECISION ON REQUEST FOR
Patent Number	: 7664188	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/680,722	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2007	: 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.

11680729

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. BOX 1450
Alexandria, Va 22313- 1450
www.uspto.gov.

DATE: January 10, 2011
Patent No: 7603955
Applicant: Foster
Issued: 10/20/09

Request for consideration of Certificate of Correction:

Consideration has been given for your request for the certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

Respecting the alleged errors in the claims are printed in accordance with the record. The Examiner states that you need to resubmit with requested changes relative to the published patent. Therefore, no correction(s) are in order here under United States Codes (U.S.C.) 254 Code of Federal Regulation (C.F.R.) 1.322/1.323.

In view of the foregoing, in this matter your request is hereby denied.

RoChaun Johnson for
Mary Diggs, Supervisor
Decisions and Certificates of Correction
(571) 272-0470

MUCH SHELIST DENENBERG
191 N. WACKER DRIVE
SUITE 1800
CHICAGO ILLINOIS 60606

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SCHWEGMAN, LUNDBERG & WOESSNER/INFINEON
P.O. Box 2938
Minneapolis, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Christian Pacha, et al.	:	
Application No. 11/680,741	:	DECISION ON PETITION
Filed: March 1, 2007	:	TO WITHDRAW
Attorney Docket No. 2006P54165US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 26, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner/Infineon has been revoked by the assignee of the patent application on July 26, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **INFINEON TECHNOLOGIES AG**
Patent Department
MUC 11.1.507
P.O. Box 221644
Munich, 80506
Germany

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INFINEON TECHNOLOGIES AG
Patent Department
MUC 11.1.507
P.O. Box 221644
Munich 80506 DE GERMANY

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OFFICE OF PETITIONS

In re Application of	:	
Christian Pacha, et al.	:	
Application No. 11/680,741	:	DECISION ON PETITION
Filed: March 1, 2007	:	
Attorney Docket No. 2006P54165US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 18, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 19, 2010. The Notice of Abandonment was mailed September 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on October 11, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2816 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Pal et al.	:	DECISION ON PETITION
Application No. 11/680,772	:	
Filed: March 1, 2007	:	
Atty Docket No. 18554-059001	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed May 20, 2011.

The petition is **GRANTED**.

On November 17, 2008, 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 received and no extension of time obtained, the application became abandoned. A courtesy Notice of Abandonment was mailed on June 26, 2009.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

All requirements of 37 CFR 1.137(b) have been met.

It is noted that petitioner makes reference to a continuation filing; however, no actual continuation application has been filed.

Technology Center AU 3731 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment filed May 20, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA OK 74119

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Application of :
Massad :
Application No.: 11/680,992 : ON PETITION
Filed: March 1, 2007 :
Attorney Docket No: **GLO255/07050A** :

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the final Office action mailed October 4, 2010. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 5, 2011.

The continuing application accorded application serial number 29/391,178 filed May 4, 2011, is noted. With continuity having been established, the subject application is again abandoned in favor of the continuing application.

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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BELL & MANNING, LLC
122 E. OLIN AVENUE, SUITE 290
MADISON WI 53713

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FEB 28 2011

OFFICE OF PETITIONS

In re Application
Robert H. Lasseter et al.
Application No. 11/681,017
Filed: March 1, 2007
Attorney Docket No: **00300-0071**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed December 13, 2010. Applicant requests that the determination of patent term adjustment be corrected from 77 days to 868 days.

The application for patent term adjustment under 37 CFR 1.705(b) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is eight hundred sixty-eight (868) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 16, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 77 days. Applicants assert that no failure to reasonably engage in efforts to conclude processing or examination of the present application arose on the part of Applicants from the filing of the IDS on June 8, 2010 and for that reason PTA should be recalculated to be at least 868 days.

The record supports a conclusion that entry of the 791 day applicant delay is not warranted. The filing of the IDS' (filed August 12, 2008, March 5, 2009, July 30, 2009, September 30, 2009 and June 8, 2010) after the filing of a Declaration in Response to a March 11, 2008 requirement (hereinafter, the "Department of Energy Declaration") on April 8, 2008 did not occur under any circumstances that constitute a "failure to engage in reasonable efforts to conclude processing or examination." Accordingly, the period of applicant delay of 791 days is being removed.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is EIGHT HUNDRED SIXTY-EIGHT (868) days.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Enclosure: Copy of Revised PALM Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11681017 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11681017

Application Filing Date	03/01/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	868
A Delays	868	PTO Manual Adjustment	791
B Delays	0	Applicant Delay (APPL)	791
C Delays	0	Total PTA (days)	868

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
76	02/24/2011		P028	Adjustment of PTA Calculation by PTO	791		0
64	09/16/2010	05/01/2008	MN/=.	Mail Notice of Allowance	868		-1
63	09/14/2010		IREV	Issue Revision Completed			0
62	09/14/2010		DVER	Document Verification			0
61	09/14/2010		N/=.	Notice of Allowance Data Verification Completed			0
60	09/13/2010		CNTA	Allowability Notice			0
51	06/30/2010		PA..	Change in Power of Attorney (May Include Associate POA)			0
50	06/29/2010		C.AD	Correspondence Address Change			0
52	06/08/2010		IDSC	Information Disclosure Statement considered			0
49	06/08/2010		RCAP	Reference capture on IDS			0
48	06/08/2010	04/08/2008	M844	Information Disclosure Statement (IDS) Filed		791	23
47	06/08/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
46	03/29/2010		DOCK	Case Docketed to Examiner in GAU			0
45	02/26/2010		DOCK	Case Docketed to Examiner in GAU			0
35	12/31/2009		PG-ISSUE	PG-Pub Issue Notification			0
34	10/08/2009		OIPE	Application Dispatched from OIPE			0
53	09/30/2009		IDSC	Information Disclosure Statement considered			0
44	09/30/2009		M844	Information Disclosure Statement (IDS) Filed			0
33	09/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
32	09/24/2009		PG-PB-DT	PG-Pub Notice of new or Revised projected publication date			0
31	09/24/2009		PGPC	Sent to Classification Contractor			0
30	09/17/2009		L130	Receipt of all Acknowledgement Letters			0
29	09/17/2009		L197	Receipt of Acknowledgment Letter			0
28	09/17/2009		L197	Receipt of Acknowledgment Letter			0
54	07/30/2009		IDSC	Information Disclosure Statement considered			0
43	07/30/2009		RCAP	Reference capture on IDS			0
42	07/30/2009		M844	Information Disclosure Statement (IDS) Filed			0
27	07/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
55	03/05/2009		IDSC	Information Disclosure Statement considered			0
41	03/05/2009		RCAP	Reference capture on IDS			0
40	03/05/2009		M844	Information Disclosure Statement (IDS) Filed			0
26	03/05/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
56	08/12/2008		IDSC	Information Disclosure Statement considered			0
39	08/12/2008		RCAP	Reference capture on IDS			0
38	08/12/2008		M844	Information Disclosure Statement (IDS) Filed			0
25	08/12/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
24	07/29/2008		C.AD	Correspondence Address Change			0
23	04/08/2008		L175	Applicant response received			0
22	03/11/2008		ML171	Request for Applicant Statement Regarding Potential DOE Interest (45-Day Letter) Mailed			0
20	08/09/2007		COMP	Application Is Now Complete			0
21	08/08/2007		PGPW	Waiting LR clearance			0
13	06/20/2007		L197	Receipt of Acknowledgment Letter			0
57	05/18/2007		IDSC	Information Disclosure Statement considered			0
37	05/18/2007		RCAP	Reference capture on IDS			0
36	05/18/2007		M844	Information Disclosure Statement (IDS) Filed			0
17	05/18/2007		FLFEE	Payment of additional filing fee/Preexam			0
16	05/18/2007		SES	Small Entity Statement (37 CFR 1.27)			0
15	05/18/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
14	05/18/2007		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
12	05/18/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
11	03/26/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0

10	03/22/2007	ML196	Agency Referral Letter Mailed	0
9	03/21/2007	ML196	Agency Referral Letter Mailed	0
8	03/21/2007	ML196	Agency Referral Letter Mailed	0
7	03/16/2007	L171	Referred for DOE Property Rights review by L&R LARS	0
6	03/16/2007	L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
5	03/16/2007	L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
4	03/16/2007	L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
3	03/09/2007	L198	Referred to Level 2 (LARS) by OIPE CSR	0
2	03/02/2007	SCAN	IFW Scan & PACR Auto Security Review	0
1	03/01/2007	IEXX	Initial Exam Team nn	0

Export to: Excel

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7920942 B2
Application No.: 11/681017
Inventor(s) : Robert H. Lasseter et al.
Issued : 04/05/2011
Attorney Docket No.: 00300-0071

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) 1.323.

The difference in the two calculations is the overlapping periods. Please consider the overlap. A Petition should be filed at the Petitions Office requesting that the patent term adjustment indicated on the above-identified patent be corrected, extended or adjusted, along with the fee. *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.

In view of the foregoing, your request, in this matter, is hereby denied.

Any request under 37 CFR 1.705(d) 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

A certificate of correction will be issued for the remaining errors noted in the request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 05/03/2011

Address: Callie M. Bell
BELL & MANNING, LLC
122 East Olin Avenue, Suite 290
Madison, WI 53713

ts/

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

MAILED

MAR 09 2012

OFFICE OF PETITIONS

In re Application of	:	
FURNISH	:	
Application No. 11/681,110	:	DECISION ON PETITION
Filed: March 1, 2007	:	TO WITHDRAW
Attorney Docket No. 022720.0130PTUS	:	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 10, 2012.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Scott A. Chambers on behalf of the attorneys of record associated with Customer No. 32042.

The attorneys of record associated with Customer No. 32042 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 address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PRESCIENT MEDICAL. INC.
2005 SOUTH EASTON ROAD
SUITE 204
DOYLESTOWN PA 18901

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
11/681,110	03/01/2007	Simon M. Furnish	022720.0130PTUS

CONFIRMATION NO. 6518

POWER OF ATTORNEY NOTICE

32042
PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

OC000000053053271

Date Mailed: 03/09/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2012.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

July 12, 2011

POLSINELLI SHUGHART PC
100 SOUTH FOURTH STREET
SUITE 1000
SAINT LOUIS MO 63102-1825

In re Application of	:	
Dennis Ballinger et al.	:	**DECISION ON PETITION**
Application No. 11681177	:	
Filed: 03/01/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **047563-420943**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 1, 2007.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/681,177	03/01/2007	Dennis Ballinger	047563-420943	6647

EXAMINER
SHAW, AMANDA MARIE

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
07/14/2011	ELECTRONIC

7590 07/14/2011
POLSINELLI SHUGHART PC
100 SOUTH FOURTH STREET
SUITE 1000
SAINT LOUIS, MO 63102-1825

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brown, Winick, Graves, Gross, Baskerville
and Schoenebaum, P.L.C
666 Grand Ave
Suite 2000
Des Moines IA 50309

MAILED
AUG 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Donald L. Crank	:	
Application No.: 11/681215	:	ON PETITION
Filing or 371(c) Date: 03/02/2007	:	
Attorney Docket Number:	:	
16782-16	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 19, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 8, 2010. 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 March 9, 2011. A Notice of Abandonment was mailed June 22, 2011.

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.

This application is being referred to Technology Center Art Unit 1789 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert B. Reeser, III
Suite 1800
7700 Forsyth Boulevard
St. Louis MO 63105

MAILED
NOV 04 2010
OFFICE OF PETITIONS

In re Patent No. 7,765,613 :
Issue Date: August 3, 2010 :
Application No. 11/681,301 : ON PETITION
Filed: March 2, 2007 :
Attorney Docket No. 27251/2 :

This is a decision on the petition under 37 CFR 1.182, filed October 20, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Ollie Person (Fax - 571-270-9764)
Kimberly Terrell (Fax - 571-270-9958)

UNITED STATES 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. : **7867868**
Ser. No. : **11/681343**
Inventor(s) : **RANISH, JOSEPH M.**
Issued : **01/11/2011**
Title : **ABSORBER LAYER CANDIDATES AND TECHNIQUES FOR APPLICATION**
Docket No. : **APPM/011315/FEP/OXD/AG**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

In regards to the alleged error(s) on the Cover Page, Item 56, the References Cited is printed in accordance with the Information Disclosure Statement.

In view of the foregoing, your request, in this matter, is hereby denied.

The Certification of Correction will be issued with a Request for Reconsideration accompanied by the $100 fee.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

KEITH M. TACKETT
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

OL

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : February 7, 2011

Patent No. :7862568
Inventor(s) :Stefan Vilsmeier et. al
Issued :January 4, 2011
Title :FIXING DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction.

Review of the application file has revealed the omission of the Foreign Priority data on the printed patent as a result of applicant's failure to fully comply with 35 U.S.C. 119 in that conditional requirements were not met. Applicant's attention is directed to MPEP 201.14(a), 37 CFR 1.17(i).

In view of the forgoing, applicant's request in this matter is hereby denied.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

A Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Don. W. Bulson
Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Avenue -19th Floor
Cleveland, OH 44115

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-3111

TO SPE OF : ART UNIT 3775

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/681385 Patent No.: 7862568

CofC mailroom date: 03-2311

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: The certified copy of the foreign application was filed in parent application 10/001952. Therefore, the applicant met the requirements for priority.

/Thomas C Barrett/ Digitally signed by /Thomas C Barrett/ DN: cn=/Thomas C Barrett/, o=US, ou=SPE AU 3775 Date: 2012.02.13 20:38:59 -05'00'

/Nicholas Woodall/
Primary Examiner, Art Unit 3775

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND, OH 44114-2378

MAILED
FEB 16 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
NAKAGAWA	:	
Application No.: 11/681,388	:	DECISION ON PETITION
Filing Date: March 2, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 30761-6	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 12, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the application data sheet filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition. The request for corrected filing receipt submitted on April 6, 2010 is **DISMISSED AS MOOT**.

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3777 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/681,388	03/02/2007	3777	620	30761-6	17	3

CONFIRMATION NO. 7084

CORRECTED FILING RECEIPT

21130
BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND, OH 44114-2378

OC000000045959522

Date Mailed: 02/11/2011

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)
MASAHIRO NAKAGAWA, Nagaoka-shi, JAPAN;

Assignment For Published Patent Application
NAGAOKA UNIVERSITY OF TECHNOLOGY, Niigata, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 21130

Domestic Priority data as claimed by applicant
This application is a CON of PCT/JP2005/016037 09/01/2005

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
JAPAN 2004-255250 09/02/2004
JAPAN 2005-54004 02/28/2005

If Required, Foreign Filing License Granted: 03/30/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/681,388**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Emotional state determination method

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PATENT SERVICES
101 COLUMBIA ROAD
PO BOX 2245
MORRISTOWN, NJ 07962-2245

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NOV 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Jan Jelinek, et al.	:	
Application No. 11/681,505	:	DECISION GRANTING PETITION
Filed: March 2, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. H0015254-1100.1457101	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 4, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2862 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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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

MAR 26 2012

OFFICE OF PETITIONS

In re Application of :
Demirli, et al. :
Application No. 11/681,509 : ON PETITION
Filed: March 2, 2007 :
Attorney Docket No. CAN-07-001 (AA745) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2012, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned October 23, 2011 for failure to timely submit a proper reply in response to the Notice of Appeal filed August 22, 2011. 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 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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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.
11/681,522	03/02/2007	Rajiv Laroia	060587U1C1	7358

23696 7590 11/16/2011
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

EXAMINER
HUYNH, CHUCK

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
11/16/2011	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):

us-docketing@qualcomm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

P.O. Box 1450

Commissioner for Patents
United States Patent and Trademark Office
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of
LAROIA, RAJIV, et al.
Application No. 11/681,522
Filed: March 02, 2007
For: **METHODS AND APPARATUS FOR PERFORMING HANDOFFS IN A MULTI-CARRIER WIRELESS COMMUNICATIONS SYSTEM**

Decision on Petition

This is a decision on the petition filed April 01, 2009 pursuant to 37 C.F.R. §1.181.

The April 01, 2009 petition requests the Commissioner to rectify the Examiner's improper non-responsive action dated March 06, 2009 and enter the response filed December 15, 2008.

The petition is **DISMISSED AS MOOT**.

A review of the file finds that a non-final office action was made by the office on August 24, 2009 which indicated the applicant's submission filed on December 15, 2008 has been entered and all remaining claims 116-163 have been considered and examined.

An RCE has since been filed on December 22, 2010. The application has been returned to the examiner and will be taken up for action in its regular turn.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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LECROY CORPORATION
700 CHESTNUT RIDGE ROAD
CHESTNUT RIDGE NY 10977

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OCT 28 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Roy, et al. :
Application No. 11/681,537 :
Filed: March 2, 2007 :
Attorney Docket No. 20488-030001 :

This is a decision on the renewed petition, filed September 14, 2010, under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is **granted**.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventors Krepner, Karpov, Lee, and Bakshi have agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to February 14, 2006.

Petitioners allege that Inventor Roy has constructively refused to sign the declaration under 37 CFR 1.131 and Inventor Fouxman cannot be located or has refused to sign the declaration under 37 CFR 1.131. Petitioners request that the Office accept the Rule 131 declaration executed by less than all the joint inventors.

37 CFR 1.131(a) states,

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

The Office has stated the signature requirements can be waived in certain circumstances.

(1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 714.

(2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable.

Petitioners have established that Andrew Roy has constructively refused to sign the declaration. Petitioners have established that Eugene Fouxman has refused to sign the declaration. Therefore, the signature requirement of Mr. Roy and Mr. Fouxman on the declaration under 37 CFR 1.131 is waived.

The application is being returned to Technology Center A.U. 2184 for the examiner of record to consider whether the declaration submitted under 37 CFR 1.131 establishes invention of the subject matter of the rejected claims prior to the effective date of the *Vedanabhatla* reference, February 14, 2006.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 76929.000009 (Formerly 54306.000190)	
Application Number: 11/681,551	Filing Date (or 371(b) or (f) Date): 03/02/2007
Patent Number: 7,658,177	Issue Date: 02/09/2010
First Named Inventor: Oswald Baasch	
Title: Air Valve And Method Of Use	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	Date 08/09/2010
Name (Print/Typed) Robert A. King	Registration Number 42,738

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☑ *Total of 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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 08/17/2010

Applicant	: Oswald Baasch	: DECISION ON REQUEST FOR
Patent Number	: 7658177	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/681,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/02/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **283** 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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STEVEN A. NIELSEN
ALLMAN & NIELSEN, P.C.
100 Larkspur Landing Circle
Suite 212
LARKSPUR CA 94939

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JUL 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Lorae A. Fistor	:	
Application No. 11/681,651	:	DECISION ON PETITION
Filed: March 2, 2007	:	
Attorney Docket No. 01135.P1US	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2011 and June 24, 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 March 11, 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 June 12, 2010. A Notice of Abandonment was mailed on October 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3727 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: Lorae A. Fistor
1853 Wright Street
Santa Rosa, CA 95404

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application	:	
Heinz-Josef Lenz	:	
Application No. 11/681,695	:	DECISION ON APPLICATION
Filed: March 2, 2007	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 064189-1110	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)", filed July 13, 2010. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded two hundred twenty-five (225) days to two hundred twenty-six (226) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred twenty-six (226) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 14, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred twenty-five (225) days. On July 13, 2010, Applicant timely[1] submitted the instant application for patent term adjustment.

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[1] Applicant filed the application for patent term adjustment together with the payment of the issue fee.

Applicant does not state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred twenty-five (225) days based on an adjustment of two hundred eighty-seven (287) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by sixty-one (61) and one (1) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). The adjustment of 1 day is at issue.

Applicant was assessed one (1) day of delay pursuant to 37 C.F.R. § 1.704(b) for filing a response to a February 13, 2009 Restriction Requirement on May 14, 2009. However, a review of the application file indicates that response was actually filed on May 13, 2009. Accordingly, no applicant delay should have been assessed for this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred twenty-six (226) days** (287 days of PTO delay, reduced by 61 days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. Applicant's request for a refund of the fee is denied.[2]

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: updated PAIR screen

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[2] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 C.F.R. 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11681695 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11681695

Application Filing Date	03/02/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	287
A Delays	287	PTO Manual Adjustment	1
B Delays	0	Applicant Delay (APPL)	62
C Delays	0	Total PTA (days)	226

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
57	08/28/2010		P028	Adjustment of PTA Calculation by PTO	1		0
46	04/14/2010		MN/=.	Mail Notice of Allowance			0
45	04/12/2010		IREV	Issue Revision Completed			0
44	04/12/2010		N/=.	Notice of Allowance Data Verification Completed			0
				Allowed Case Returned to the Examiner for			

41	04/01/2010		ACRE	Clerical Processing			0
40	04/01/2010		DVER	Document Verification			0
39	03/29/2010		EX.A	Examiner's Amendment Communication			0
38	03/29/2010		CNTA	Notice of Allowability			0
34	01/27/2010		FWDX	Date Forwarded to Examiner			0
31	01/14/2010		CRFE	CRF Is Good Technically / Entered into Database			0
37	12/22/2009		IDSC	Information Disclosure Statement considered			0
36	12/22/2009		RCAP	Reference capture on IDS			0
35	12/22/2009	12/22/2009	M844	Information Disclosure Statement (IDS) Filed			33
33	12/22/2009	10/22/2009	A...	Response after Non-Final Action		61	27
32	12/22/2009		XT/G	Request for Extension of Time - Granted			0
30	12/22/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
29	10/20/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
28	10/15/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
27	07/22/2009		MCTNF	Mail Non-Final Rejection			0
26	07/20/2009		CTNF	Non-Final Rejection			0
24	05/17/2009		FWDX	Date Forwarded to Examiner			0
23	05/14/2009	05/13/2009	ELC.	Response to Election / Restriction Filed		1	21
22	05/14/2009		XT/G	Request for Extension of Time - Granted			0
21	02/13/2009	05/02/2008	MCTRS	Mail Restriction Requirement	287		-1
20	02/12/2009		CTRS	Requirement for Restriction / Election			0
25	10/24/2007		IDSC	Information Disclosure Statement considered			0
19	10/24/2007		RCAP	Reference capture on IDS			0
18	10/24/2007		M844	Information Disclosure Statement (IDS) Filed			0
16	10/24/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
15	09/06/2007		PG-ISSUE	PG-Pub Issue Notification			0
14	07/09/2007		DOCK	Case Docketed to Examiner in GAU			0
13	06/04/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	05/15/2007		OIPE	Application Dispatched from OIPE			0
11	05/15/2007		OIPE	Application Dispatched from OIPE			0
10	04/24/2007		PGPC	Sent to Classification Contractor			0
9	04/24/2007		COMP	Application Is Now Complete			0
8	04/10/2007		ADDFLFEE	Additional Application Filing Fees			0
7	04/10/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
				Notice Mailed--Application Incomplete--Filing			

6	03/27/2007	INCD	Date Assigned	0
5	03/22/2007	L128	Cleared by L&R (LARS)	0
4	03/13/2007	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	03/13/2007	CLSS	CASE CLASSIFIED BY OIPE	0
2	03/03/2007	SCAN	IFW Scan & PACR Auto Security Review	0
1	03/02/2007	IEXX	Initial Exam Team nn	0

Export to: Excel

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P.O. BOX 700640
SAN JOSE CA 95170

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of
Rao Kota
Application No. 11/681,718
Filed: March 2, 2007
Attorney Docket No. ULTR-P002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Joseph A. Nguyen on behalf of all attorneys of record who are associated with customer No. 32986. All attorneys/agents associated with the Customer Number 32986 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed April 1, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: RAO KOTA
C/O ULTRIVA, INC.
1601 S. DE ANZA BLVD
SUITE 260
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/681,718	03/02/2007	Rao Kota	ULTR-P002

CONFIRMATION NO. 7716

POWER OF ATTORNEY NOTICE

32986
IPSG, P.C.
P.O. BOX 700640
SAN JOSE, CA 95170

OC000000044174478

Date Mailed: 10/25/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/6/10

TO SPE OF : ART UNIT 2813 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/681,745 Patent No.: 7,776,728

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
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

SPE [signature] ART UNIT 2813

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/6/10

TO SPE OF : ART UNIT 2813 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/681,745 Patent No.: 7,776,728

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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
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

SPE Martin C. Sanders ART UNIT 2813

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Alexandria, VA 22313-1450
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MAILED
JUN 23 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,913,314
Issued: March 22, 2011
Application No. 11/681,915
Filed: March 5, 2007
Attorney Docket No. 07844-0518002 / P480 C1

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on May 20, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 801 to 936 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On March 22, 2011, the above-identified application matured into U.S. Patent No. 7,913,314, with a revised patent term adjustment of 801 days. On May 20, 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 936. 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 November 8, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 135 day period from November 8, 2010 (the mailing date of the Notice of Allowance) until March 22, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 135 days and be increased from 240 to 375 days. Patentee concludes that the correct patent term adjustment is 936 days (the sum of 639 days of "A delay" and 375 days of "B delay" minus 78 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 240 days based on the application having been filed under 35 U.S.C.

111(a) on March 5, 2007 and the patent not having issued as of the day after the three year date, March 6, 2010, and a request for continued examination under 132(b) having been filed on November 1, 2010. In other words, the 135-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the

applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not

entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on November 1, 2010, and the patent issued by virtue of that request on March 22, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on November 1, 2010 and ending on March 22, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 801 days indicated on the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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November 15, 2010

Gregory Turocy
Turocy & Watson, LLP
57th Floor, Key Tower
127 Public Square
Cleveland, OH 44114

Patent No.	: 7,679,632 B2
Ser. No.	: 11/681,925
Inventor(s)	: Fumiharu Iwasaki
Issued	: March 16, 2010
Docket No.	: TOSHP192US
Title	: **THERMAL PRINTER AND METHOD OF CONTROLLING THE SAME**

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.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND OH 44114

MAILED
JAN 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,679,632	:	
Issue Date: March 16, 2010	:	
Application No. 11/681,925	:	ON PETITION
Filed: March 5, 2007	:	
Attorney Docket No. TOSHP192US	:	

This is a decision on the petition filed November 30, 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) 272-3230. 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.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

3-18-2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No : 7,552,131 B2
Ser. No. : 11/681,955
Inventor(s) : Edward G. Chron, et. al.
Issued : June 23, 2009

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will issue to correct the remaining error noted in your request.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Gibb I. P Law Firm, LLC
844 West Street, Suite 100
Annapolis, MD 21401

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

6-21-2011

Patent No. : 7,552,131 B2
Inventor(s) : Edward G. Chron, et. al.
Issued : June 23, 2009
Application No: 11/681955

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

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(ih) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Frederick W. Gibb
Gibb I.P. Law Firm
844 West Street, Suite 100
Annapolis, MD 21401

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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NOV 09 2011
OFFICE OF PETITIONS

FREDERICK W. GIBB, III
Gibb Intellectual Property Law Firm, LLC
844 West Street
SUITE 100
ANNAPOLIS MD 21401

In re Patent No. 7,552,131	:	
Issue Date: June 23, 2009	:	
Application No. 11/681,955	:	DECISION ON PETITION
Filed: March 5, 2007	:	
Attorney Docket No. ARC92006007US1	:	

This is a decision on the Request For Correction Of Assignee Under 37 CFR 3.81(b) And Statement, which is being treated as a Petition Under 37 CFR §3.81(b), filed June 16, 2011, to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. 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. 7,552,131.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VISTA PRINT USA, INC.
ATTN: PATENT COUNSEL
95 HAYDEN AVENUE
LEXINGTON, MA 02421

MAILED

MAY 12 2011

OFFICE OF PETITIONS

In re Application of
Hernando Torres-Rocca, et al.
Application No. 11/681,961
Filed: March 5, 2007
Attorney Docket No.: 06-010 CIP

ON PETITION

This is a decision in response to the petition, filed April 4, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to an Office communication mailed January 25, 2011. A Notice of Abandonment was subsequently mailed on April 4, 2011.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Jessica J. Costa appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3684 for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 19, 2011

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/681995 Patent No.: 8039727

CofC mailroom date: 12-10-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Magdalene Talley
Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Paul Ridley — **SPE**

1725 — **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

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APR 11 2011

OFFICE OF PETITIONS

WHITE & FUDALA
57 BEDFORD STREET, SUITE 103
LEXINGTON, MA 02420

In re Application of	:	
Garrin SAMII, *et al.*	:	
Application No. 11/682,079	:	DECISION ON PETITION
Filed: March 5, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **AMS_006**	:	

This is a decision on the petition, filed December 16, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to 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 instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 16, 2009. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

Petitioner has filed the instant petition to revive as a conditional petition on the basis that the USPTO should acknowledge the fact that a timely and explicit notification under 35 U.S.C. § 122(b)(2)(b)(iii) was filed. In this regard, petitioner contends that the application number and filing date of the subject application were included on a request form of the international application, which international application was filed at the USPTO in its capacity as the Receiving Office. Therefore, petitioner's act of filing the international application notified the Director of the filing of the international application not later than 45 days after such filing of the international application.

Addressing petitioner's argument that no specific notice is required of the filing an international application since such filing in the United States Receiving Office was a notification of foreign filing within 45 days, this argument is not persuasive. 37 CFR 1.213(c) requires the applicant to provide notice, and 37 CFR 1.4(b) provides that each

application must be complete in itself. An international application would not be placed into the file of an application that it relies upon for the benefit of an earlier filing date, and so applicant was required to file a separate paper pursuant to 37 CFR 1.4(b) in the above-identified application. Therefore, the mere filing of a PCT application is not the notification required by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c). Petitioner's attention is also directed to 37 CFR 1.4(c), which states:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Pursuant to 37 CFR 1.4(c), the separate paper was required to address a distinct subject, so a notification of foreign filing was required to be on a separate paper from another matter (such as a new application), and so the mere filing of the international application, which references the application number and filing date of the subject application, in the United States Receiving Office would not have been notice of foreign filing.

A review of the contents of the file of the above-identified application shows that no notification of the filing of the PCT application was filed within 45 days after the filing date of the PCT application. As a result of petitioner's failure to provide timely notice of the filing of the PCT application, pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), the above-identified application became abandoned midnight April 2, 2009.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 14, 2011 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being forwarded to Technology Center Art Unit 1725 for examination in due course.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/682,079	03/05/2007	Garrin Samii	AMS_006

CONFIRMATION NO. 8411

26918
WHITE & FUDALA
57 BEDFORD STREET
SUITE 103
LEXINGTON, MA 02420

NONPUBLICATION RESCISSION LETTER

OC000000046996358

Date Mailed: 04/06/2011

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 07/14/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/magraves/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/682,098	03/05/2007	Gary J. Dozeman	136609.00014	8441

89921 7590 10/07/2010
Gentex Corporation
c/o Quarles & Brady LLP
One South Church Street
Suite 1700
Tucson, AZ 85701-1621

EXAMINER
TRA, TUYEN Q

ART UNIT	PAPER NUMBER
2873	

NOTIFICATION DATE	DELIVERY MODE
10/07/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pat-dept@quarles.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

Gentex Corporation
c/o Quarles & Brady LLP
One South Church Street
Suite 1700
Tucson, AZ 85701-1621

In re Application of Gary J. Dozeman et al.	:	
Appl. No.: 11/682,098	:	DECISION ON PETITION
Filed: March 5, 2007	:	UNDER 37 C.F.R. § 1.59
Attorney Docket No.: 136609.00014	:	
For: ELECTRO-OPTICAL ELEMENT INCLUDING	:	
METALLIC FILMS AND METHODS FOR APPLYING	:	
THE SAME	:	

This is a decision on the petition under 37 C.F.R. §1.59(b), filed March 23, 2010, to expunge information filed incorrectly from the above-identified application.

The petition is DENIED.

Petitioner requests that the Information Disclosure Statement (IDS) filed March 16, 2010, along with two accompanying documents be expunged from the record. Petitioner asserts that the 3-page IDS and the two accompanying documents were inadvertently and erroneously submitted in the instant application and were intended for a different application as is evident from the header of the IDS.

Pursuant to M.P.E.P. § 724.05. III., "37 CFR 1.59(b) also covers the situation where an unintended heading has been placed on papers so that they are present in an incorrect application file. In such a situation, a petition should request that the papers be expunged ..... The grant of such a petition will be governed by the factors enumerated in paragraph II of this section in regard to the unintentional submission of information..."

Pursuant to M.P.E.P. § 724.05.II. information unintentionally submitted may be expunged from the file record provided that: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted; (C) the information has not otherwise been made public; (D) there is a commitment on the part of the

petitioner to retain such information for the period of any patent with regard to which such information is submitted; (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and (F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The petition also does not satisfy conditions (B), (C) and (D) above for a grantable petition to expunge information unintentionally submitted in the application under M.P.E.P. § 724.05. III.

For the above-stated reasons, the petition to expunge is denied. The information submitted with the IDS on March 16, 2010 will remain in the file record.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-23-10

Paper No.: _____

TO SPE OF : ART UNIT ~~2454~~ 2445

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/682150 Patent No.: 7,734,772

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check drawings

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

All changes approved.

/Andrew Caldwell/

SPE Andrew Caldwell **ART UNIT** 2445

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Leyendecker & Lemire, LLC
Suite 280
9137 E. Mineral Circle
Centennial, CO 80112

MAILED
MAY 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Cynthia Duncan	:	
Application No. 11/682,202	:	DECISION ON PETITION
Filed: March 5, 2007	:	
Attorney Docket No. **BPB-0**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2011, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 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). A one (1) 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 July 1, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-4584.

This application is being referred to Technology Center AU 3765 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120417

DATE :

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction on Patent No.: 7,722,611

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:

/EDUARDO C ROBERT/
Supervisory Patent Examiner.Art Unit 3733

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Tomas GILLO, et *al.*	:	
Application No. 11/682,284	:	DECISION GRANTING PETITION
Filed: March 5, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SCEA06106US00**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 23, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2454 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JOSHUA D. ISENBERG
JDI PATENT
809 CORPORATE WAY
FREMONT, CA 94539

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Tomas GILLO, et *al.*	:	
Application No. 11/682,284	:	DECISION GRANTING PETITION
Filed: March 5, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SCEA06106US00**	:	

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 23, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2454 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/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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Krajec Patent Offices, LLC / Sandwave IP, LLC
Suite 321
1635 Foxtrail Drive
Loveland, CO 80538

MAILED
JUN 02 2011
OFFICE OF PETITIONS

In re Application of Bishop :
Application No. 11/682,365 :
Filing Date: March 6, 2007 :
Attorney Docket No. MEDI18US01 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b) filed March 18, 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 final Office action issued September 16, 2010, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 17, 2010. A Notice of Abandonment was issued on March 31, 2011.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied a reply in the form of request for continued examination and an amendment, the required petition fee of $810, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2617 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

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Alexandria, VA 22313-1450
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OCT 26 2010

OFFICE OF PETITIONS

MARK E. TETREAULT
101 DYER STREET, 5TH FLOOR
PROVIDENCE RI 02903

In re Application of	:	
Peter A. GLOOR	:	
Application No. 11/682,387	:	DECISION ON PETITION
Filed: March 6, 2007	:	TO WITHDRAW
Attorney Docket No. G032 P01298-US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 4, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

In this regard, a review of the file record indicates that Mark E. Tetreault, does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address indicated below until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PETER A. GLOOR
25 RINDGEFIELD STREET
CAMBRIDGE, MA 02140

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W. EDWARD RAMAGE
COMMERCE CENTER SUITE
1000
211 COMMERCE ST
NASHVILLE TN 37201

MAILED
NOV 23 2010
OFFICE OF PETITIONS

In re Application of

McCall, et al. :

Application No. 11/682,456

: DECISION ON PETITION

Filed: March 6, 2007

:

Attorney Docket No. **2902207.000002**

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2010, 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 March 2, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on June 3, 2010.

The amendment filed September 7, 2010, is noted.

The application is being forwarded to Technology Center 2100, GAU 2162 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

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): 11/682,478	Patent Number (if applicable):
First Named Inventor: Eiichi MAKINO	Title of Invention: NONVOLATILE SEMICONDUCTOR MEMORY DEVICE

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature Eckhard H. Kuesters	Date 5/16/2011
Name (Print/Typed) Eckhard H. Kuesters	Practitioner Registration Number 28,870

Note: *Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☒ *Total of 1 forms are submitted.

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Makino et al.	:	
Application No. 11/682,478	:	DECISION ON PETITION
Filed: March 6, 2007	:	
Attorney Docket No. 304662US2	:	

This is a decision on the request filed May 16, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on March 3, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 2827 for re-mailing the Office action of March 3, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Holme Roberts & Owen LLP-Client-1
1700 Lincoln Street, Suite 4100
Denver CO 80203

MAILED
JAN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
David R. Hall, et al.	:	
Application No. 11/682,758	:	DECISION ON PETITION
Filed: March 6, 2007	:	
Attorney Docket No. 85.0123	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 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 July 28, 2010. The Notice of Abandonment was mailed December 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 an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3663 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Townsend and Townsend and Crew LLP /Pulmonx 017534
Two Embarcadero Center, Eighth Floor
San Francisco CA 94111-3834

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Rodney C. Perkins et al.	:	
Application No. 11/682,986	:	DECISION ON PETITION
Filed: March 7, 2007	:	TO WITHDRAW
Attorney Docket No. **017534-003510US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 10, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request is not approved because the practitioner(s) lacks items (1) (2) and (3) certifications mention above that is required under 37 CFR 10.40. It is also noted, that the request failed to list a correspondence address for either the first named inventor or the assignee of record. Therefore, the request can not be granted at this time we strongly encourage petitioner to use the enclosed Request for Withdrawal as Attorney or Agent and Change of Correspondence Address form PTO/SB/83.

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
Petitions Examiner
Office of Petitions

Attachment: Blank Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (PTO/SB/83) form

UNITED STATES PATENT AND TRADEMARK OFFICE

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

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SEP 20 2010

OFFICE OF PETITIONS

In re Patent of Hendler et al. :
Patent No. 7,630,786 :
Issue date: December 8, 2009 :
Application No. 11/683,218 :
Filed: March 7, 2007 :
Atty Docket No. ASX-088 :

ON PETITION

This is in response to the Petition for Waiver of Fees Under 37 C.F.R. 1.136(a) and Reduction of Period of Adjustment of Patent Term Under 37 C.F.R. 1.705(b) Submitted on June 30, 2009, filed May 7, 2010. Patentees request the Office "...waive any reduction of the period of patent term that would be imposed on Applicant under 37 CFR 1.704 for responding to the Office Action dated December 31, 2008 on this same date." The correspondence will be treated as an application for patent term adjustment under 37 CFR 1.705(d). In addition, petitioners request waiver of an extension of time fee under 37 CFR 1.136(a), paid on June 30, 2009. The request for refund of the extension of time fee will be treated as a feeless petition under 37 CFR 1.181.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

The petition under 37 CFR 1.181 for refund of extension of time is **dismissed**.

Any request for reconsideration, must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

On December 8, 2009, the above-identified application matured into U.S. Patent No. 7,630,786 with a revised patent term adjustment of 5 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued.

A request for reconsideration of the patent term adjustment indicated in the patent was not filed until May 7, 2010.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by February 8, 2010, the date two months from the date this patent issued, December 8, 2009.

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include 37 CFR 1.705(d).

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the

37 CFR 1.705(d) provides an avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, §1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the present request was not filed within two months of the issue date of the patent, the request is properly dismissed as untimely filed.

Patentees are informed that even if the original petition, filed June 30, 2009, had been accompanied by the $200.00 petition fee, it would not have been granted because it, too, would have been untimely filed. A petition under 37 CFR 1.705(b) must be filed after the mailing of the Notice of Allowance and prior to payment of the issue fee. The June 30, 2009 petition was filed prior to the mailing of the August 21, 2009 Notice of Allowance. As such, it was untimely filed.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Turning to the constructive petition under 37 CFR 1.181 to waive the extension of time fee that was first submitted on June 30, 2009, the petition is dismissed. Petitioners request a refund of the extension of time fee paid on June 30, 2009 because they did not receive the Office action, mailed December 31, 2008, and only filed the petition for a three month extension of time and amendment to avoid abandonment.

Petitioners are informed that an applicant does not have to wait until a Notice of Abandonment is in hand to file a petition to withdraw the holding of abandonment under 37 CFR 1.181. On June 30, 2009, petitioners could have filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on non-receipt of the Office action, instead of filing a petition for a three month extension of time under 37 CFR 1.136(a) and an amendment. It is noted that the June 30, 2009 petition did not contain a *showing* of non-receipt of the Office action.

---

patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

On the date that petitioners filed the petition for a three month extension of time under 37 CFR 1.136(a) and an amendment, a three month extension of time was due.

Petitioners are reminded that the applicable statute pertaining to refund, 35 U.S.C. 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required." Thus the USPTO may refund: (1) a fee paid when no fee is required (*i.e.*, a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment, and not the underlying action) 37 CFR 1.26(a). As stated above, on June 30, 2009, a three month extension of time was required to make the simultaneously submitted amendment timely filed. The fee was due when it was submitted to the Office.

The word "shall" appears in 35 U.S.C. § 41(a)(8)(C) pertaining to three month extensions of time. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). That is, it is mandatory that the Commissioner charge, and the applicant pay, the fees specified by statute upon presentation of a request for a service by the PTO. See BEC Pressure Controls Corp. v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (N.D. Ind. 1974). The language of the statute does not permit the Commissioner any discretion with respect to charging the fees set forth therein. Id. Thus, even if the present petition were treated as a petition under 37 CFR 1.183 for waiver of the rules, which incidentally would require the Office charging petitioners an additional $400.00, the outcome would be the same. It is not possible waive a statute.

The fee was properly charged and will not be refunded. The petition under 37 CFR 1.181 is dismissed.

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)

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/683,287	03/07/2007	Leon Robert Cuvelier	758.1865USU1	1614

23552 7590 11/26/2010
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
HAWKINS, KARLA

ART UNIT	PAPER NUMBER
1775	

MAIL DATE	DELIVERY MODE
11/26/2010	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.

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wk

Mailed: NOV 26 2010

In re application of :
Cuvelier : DECISION ON
Serial No. 11/683,287 : PETITION
Filed: March 7, 2007 :
For: FILTER ASSEMBLY WITH PLEATED MEDIA POCKETS, AND METHODS

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on September 28, 2010 to withdraw the Finality of the Office Action mailed September 14, 2010.

In response to the first office action, Applicant on June 30, 2010, amended claims 1 and 10. The second Office Action issued on September 14, 2010 was made final and included a new ground of rejection to unamended claim17.

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 second Office Action contained a new rejection against claim 17 under 35 USC 102(a). The previous rejection to claim 17 was under 37 CFR 102(e) It appears that the Examiner has introduced a new grounds of rejection against claim 17 that was not necessitated by Applicant's amendment.

DECISION

The petition is **GRANTED**.

The finality of the September 14, 2010 action is withdrawn. The period for response will continue run from the mail date of September 14, 2010.

/Gary Jones/
Director, Technology Center 1700
Chemical and Materials Engineering

Julie R. Daulton
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OPTIMAL INNOVATIONS, INC.
1001 WEST 4TH ST.
WINSTON-SALEM NC 27101

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
SCHOETTLE, Roland	:	
Application No. 11/683,298	:	DECISION ON PETITION
Filed: March 07, 2007	:	TO WITHDRAW
Attorney Docket No. **66816/P014US/10614006**	:	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 July 16, 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 Michael T. Morlock on behalf of all attorneys of record who are associated with customer No. 84373. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 16, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OPTIMAL INNOVATIONS, INC.**
801 JONES FRANKLIN RD.
SUITE 210
RALEIGH, NC 27606

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1001 WEST 4TH ST.
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AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
SCHOETTLE, Roland	:	
Application No. 11/683,304	:	DECISION ON PETITION
Filed: March 07, 2007	:	TO WITHDRAW
Attorney Docket No. **66816/P012US/10609934**	:	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 July 16, 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 Michael T. Morlock on behalf of all attorneys of record who are associated with customer No. 84373. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed March 17, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OPTIMAL INNOVATIONS, INC.**
801 JONES FRANKLIN RD.
SUITE 210
RALEIGH, NC 27606

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED

APR 04 2011

OFFICE OF PETITIONS

In re Application of	:	
James Wilson Cates Jr.	:	DECISION ON PETITION
Application No. 11/683,315	:	TO WITHDRAW
Filed: March 7, 2007	:	FROM RECORD
Attorney Docket No. A9242	:	

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 9, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Allison M. Tulino on behalf of all the practitioners of record associated with Customer Number 23373.

Customer Number 23373 has been withdrawn as attorney from record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application is currently abandoned for failure to respond to the Office action of August 17, 2010.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: DR. JAMES W. CATES JR.
C/O SATELLITE MED.,
1120 SAM'S STREET
COOKEVILLE, TN 38506

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/683,315	03/07/2007	James Wilson Cates JR.	A9242

CONFIRMATION NO. 1649

POWER OF ATTORNEY NOTICE

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

OC000000046851010

Date Mailed: 03/30/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/09/2011.

- 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.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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GREGORY & MARTENSEN LLP
2018 BISSONNET STREET
HOUSTON TX 77005

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Verdiell et al.	:	
Application Number: 11/683,319	:	ON PETITION
Filing Date: 03/07/2007	:	
Attorney Docket Number:	:	
ALPN.P003	:	

This is a decision in response to the petition under 37 CFR 1.137(b) filed on June 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 8, 2010, for failure to timely reply to the non-final Office action mailed on January 7, 2010, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on July 13, 2010.

Receipt of the amendment filed on June 1, 2011 is acknowledged.

The application is referred to Technology Center Art Unit 2613 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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1001 WEST 4TH ST.
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AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Roland **SCHOETTLE**	:	
Application No. 11/683,327	:	DECISION ON PETITION
Filed: March 07, 2007	:	TO WITHDRAW
Attorney Docket No. **66816/P013US/10609935**	:	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 July 16, 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 Michael T. Morlock on behalf of all attorneys of record who are associated with customer No. 84373. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OPTIMAL INNOVATIONS, INC.**
801 JONES FRANKLIN RD., SUITE 210
RALEIGH, NC 27606

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/683,533	03/08/2007	KATHY-LYNN BUCHHEIT	KLB-70001	1070

62047 7590 10/07/2011
PATENTS ON DEMAND, P.A.-General
4581 WESTON ROAD
SUITE 345
WESTON, FL 33331

EXAMINER
CHEUNG, CHUN HOI

ART UNIT	PAPER NUMBER
3728	

NOTIFICATION DATE	DELIVERY MODE
10/07/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing1@patentsondemand.com
docketing2@patentsondemand.com
brian.buchheit@patentsondemand.com

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PATENTS ON DEMAND, P.A.-General
4581 WESTON ROAD
SUITE 345
WESTON FL 33331

In re Application of: BUCHHEIT, KATHY-LYNN et al Serial No.: 11/683,533 Filed: March 3, 2007 Docket: KLB-70001 Title: PACKAGING BABY APPAREL ITEMS IN THE SHAPE OF A BAKED GOOD	DECISION ON PETITION TO WITHDRAW FINALITY OF OFFICE ACTION and RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed September 19, 2011 to withdraw the restriction requirement promulgated on August 19, 2011 based on the constructive election. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition to withdraw the restriction requirement is granted.

In the petition, petitioner requests the examiner to withdraw the restriction requirement issued on August 19, 2011 regarding elected claims 8-20, 22 and 24-25 and the newly added claims 21, 23 and 27. Petitioner believes that the restriction between the original examined claims and the newly added clams was in error. In particular, petitioner argues that the examiner failed to show the newly added claims 21, 23 and 27 are independent or distinct from the original examined claims in accordance with applicable provisions in chapter 800 of the MPEP. Therefore, the request of withdrawal of the restriction requirement in the application should be granted.

A review of the restriction requirement based on the constructive election mailed on August 19, 2011 under MPEP 821.03 shows no adequate explanation with examples why the original claimed inventions, claims 8-20, 22 and 24-25 are independent or distinct from the newly added claims 21, 23 and 27. Since the restriction requirement was unclear in this regard, the restriction requirement is now withdrawn. In order to clarify the status of the restriction requirement, the examiner is directed to issue a complete restriction requirement in accordance with the Chapter 800 of MPEP procedure in his next Office action. In the alternative, the examiner is requested to

totally withdraw the restriction requirement of August 19, 2011 and examine all pending claims in the next Office action. The petition to withdraw the restriction requirement of August 19, 2011 is granted.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3728 awaiting the applicant's response to the outstanding Office action of August 19, 2011. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Sharon A. Gibson, Director
Technology Center 3700

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Paper No.

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Wu et al.	:	
Application No. 11/683,559	:	DECISION ON PETITION
Filed: March 8, 2007	:	PURSUANT TO
Attorney Docket No.: Q100398	:	37 C.F.R. § 1.28(c)
Title: DEVICE AND METHOD FOR	:	
LANGUAGE MODEL SWITCHING AND	:	
ADAPTATION	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on October 31, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

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 $585.00 will be charged to Deposit Account No. 19-4880 in due course, as authorized on the second page of this petition.

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 Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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MICHAEL I KROLL
80 SKYLINE DRIVE
SUITE 304
PLAINVIEW, NY 11803

MAILED

JAN 26 2012

OFFICE OF PETITIONS

In re Application of
Tony L. Lovett
Application No. 11/683,570
Filed: March 8, 2007
Attorney Docket No.: TL-1-AM

ON PETITION

This is a decision on the petition, filed December 20, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue on or before February 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 30, 2009, which set a statutory period for reply of three (3) months. A Notice of Abandonment was subsequently mailed on February 18, 2010. On December 20, 2011, the present petition was filed.

It is noted that the petition is signed by the inventor, Tony L. Lovett; however, petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office does not engage in dual correspondence with petitioner and petitioner's representative. 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 promptly submitted. A change of correspondence address, without a revocation of the power, is not effective to change the correspondence address. While a courtesy copy of this decision is being mailed to the petitioner, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $870 issue fee; (2) the petition fee of $930; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TONY L. LOVETT
6004 PATTERSON AVE.
JACKSONVILLE, FL 32219

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

MAILED
FEB 21 2012
OFFICE OF PETITIONS

In re Application of	:	
Sperschneider, et al.	:	
Application No. 11/683,741	:	DECISION
Filed/Deposited: 8 March, 2007	:	
Attorney Docket No. SCHO0418	:	

This is a decision on the papers filed on 28 December, 2011, supplemented on 13 February, 2012, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 13 April, 2011, with reply due absent an extension of time on or 13 July, 2011.

On 13 June, 2011, Petitioner filed an amendment after final, which the Examiner did not enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance.

(At this writing, the Examiner confirmed that the application was abandoned, though a Notice of Abandonment was not mailed before a petition was filed.)

On 12 July, 2011 the Examiner mailed an Advisory Action—however, as noted above there was no formal entry of the after-final amendment.

The application went abandoned by operation of law after midnight 13 July, 2011.

On 28 December, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and pointed to the previously filed amendment as the reply. Thereafter, on 13 February, 2012, Petitioner supplemented the petition with a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2614 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Petition treated as a request reconsideration. IDS was considered by examiner and mailed out.

/Stephone B. Allen/
SPE AU 2872
12/1/2011

DOCKET NO: 304680US28

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	: ALLOWED: MARCH 28, 2011
EIICHI HAYASHI, ET AL.	: EXAMINER: PHAN, JAMES
SERIAL NO: 11/683,743	:
FILED: MARCH 8, 2007	: GROUP ART UNIT: 2872
FOR: OPTICAL SCANNING APPARATUS, IMAGE FORMING APPARATUS, AND SCANNING-LINE-CHANGE CORRECTING METHOD	:

PETITION FOR CONSIDERATION UNDER 37 C.F.R. 1.181(A)(3)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants herein petition the Commissioner to invoke his supervisory authority to compel the Examiner to consider the Document (AW) cited in the Information Disclosure Statement filed on March 1, 2011.

The Information Disclosure Statement, in conformity with the requirements of 37 C.F.R. §1.97-1.98, was originally filed on March 1, 2011, together with a copy of Document (AW) of a Japanese Office Action citing Documents (AO)-(AT), as well as copies of Documents (AO)-(AT) with English abstracts or notation of an equivalent U.S. patent. The above-referenced application has now been allowed. Document (AW) was denied consideration by the Examiner on March 14, 2011.

37 C.F.R. §1.181(a)(3) allows petition to invoke the supervisory authority of the Commissioner in appropriate circumstances. The Information Disclosure Statement is in

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United States Patent and Trademark Office
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Paper No.

MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS MI 49503

MAILED
JAN 26 2012
OFFICE OF PETITIONS

In re Application of	:	
Nguyen et al.	:	DECISION ON PETITION
Application No. 11/683,744	:	
Filed: March 8, 2007	:	
Atty Docket No. 71189-2009	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.182 filed December 29, 2011, requesting a change to the order of the listing of the inventors in the above-identified application.

The petition is **GRANTED**.

Petitioner requests that the order of inventors be changed. The petition includes payment of the $400 petition fee.

The order of the names of the inventors has been as follows (consistent with the request on instant petition):

1. Tom Minh Nguyen
2. Steven J. Butkiewicz
3. Alan J. Krebs
4. George C. Moyher, Jr.
5. Gary A. Kasper
6. Timothy S. Parker
7. Daniel M. Heidenga
8. Brandon Graham

A new bibliographic data sheet showing this order of inventors is being made of record.

Receipt of a supplemental application data sheet setting forth the correct order of inventors should be filed. The filing of an application data sheet showing the new order of inventor

names ensures appropriate printing of the inventor names in any patent to issue. See MPEP 605.04(f).

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Bib Data Sheet

CONFIRMATION NO. 143

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/683,744	03/08/2007 RULE	015	3723	71189-2009

APPLICANTS

Tom Minh Nguyen, Grand Rapids, MI;
Steven J. Butkiewicz, Wyoming, MI;
Alan J. Krebs, Pierson, MI;
George C. Moyher, Jr., Cedar Springs, MI;
Gary A. Kasper, Grand Rapids, MI;
Timothy S. Parker, Rockford, MI;
Daniel M. Heidenga, Wyoming, MI;
Brandon Graham, Hudsonville, MI;

**** CONTINUING DATA ****************************

This application is a CIP of 11/371,721 03/09/2006 PAT 7305731
which claims benefit of 60/659,786 03/09/2005

**** FOREIGN APPLICATIONS **********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED **
03/20/2007

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDEN CLAIMS
Foreign Priority claimed 35 USC 119 (a-d) conditions met Verified and Acknowledged	☐ yes ☐ no ☐ yes ☐ no ☐ Met after Allowance Examiner's Signature Initials	MI	31	23	3

ADDRESS
20915

TITLE

VACUUM CLEANER WITH HAIR COLLECTION ELEMENT

FILING FEE RECEIVED 1554	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 24, 2011

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11683748 Patent No.: 7617725

CofC mailroom date: Jan. 12, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

Hezron Williams

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2856

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OCT 22 2010

OFFICE OF PETITIONS

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

In re Application of	:	
Jorg Landschorf	:	
Application Number: 11/683895	:	DECISION ON PETITION
Filing Date: 03/08/2007	:	
Attorney Docket Number: TS9576	:	
(US)	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on July 29, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

---

[1] A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

This application became abandoned on February 4, 2010, for failure to timely file a proper reply to the final Office action mailed on November 3, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the subject petition precedes the mailing of Notice of Abandonment.

The petition lacks the required reply. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on July 29, 2010, does not place the case in *prima facie* condition for allowance.

Petitioner should file a proper reply with any renewed petition.

A copy of the examiner's Advisory Action is enclosed for petitioner's reference.

It is noted that a terminal disclaimer was filed with the subject petition. 37 CFR 1.137(d)(1) states, in pertinent part, that any petition to revive pursuant to this section in a design application, or a utility or plant application filed before June 8, 1995, must be accompanied by a terminal disclaimer and fee as set forth in § 1.321. As the subject application was not filed before June 8, 1995 and is not a design application, no terminal disclaimer is necessary pursuant to 37 CFR 1.137(d). The terminal disclaimer will not be entered, but will be retained in the application file. The disclaimer fee of $140.00 will be refunded to counsel's deposit account.

The address in the petition is different from the correspondence address. A courtesy copy of this decision will be mailed to the address listed in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief

Cc: PAULA D. MORRIS
PO BOX 420787
HOUSTON TX 77242-0787

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/683,895	Applicant(s) LANDSCHOF, JORG	
	Examiner CHANTEL GRAHAM	Art Unit 1775	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 5-22.
   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: _____.

/Michael A Marcheschi/
Supervisory Patent Examiner, Art Unit 1775

/CHANTEL GRAHAM/
Examiner, Art Unit 1775

Continuation of 3. NOTE: the amendments made after the Final Rejection are NOT entered because amendment to part (c) of the original claims, a second amount of a naphthenic rich blending component having a kinematic viscosity at 40 degrees C of between 6 and 30 cSt, would require an additional search and/or further consideration. In addition, the scope of the newly added claims would also require further search and/or consideration in view of the specifically new amounts claimed. With respect to part (d) of section 3 above, 15 new claims have been added and only 7 finally rejected claims have been canceled

Continuation of 11. does NOT place the application in condition for allowance because: Examiner maintains rejections of record because the prior art of record fully discloses the claimed invention.

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HOUSTON TX 77252-2463

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JAN 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Jorg Landschorf	:	
Application Number: 11/683895	:	DECISION ON PETITION
Filing Date: 03/08/2007	:	
Attorney Docket Number: TS9576	:	
(US)	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on November 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 4, 2010, for failure to timely file a proper reply to the final Office action mailed on November 3, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the subject petition precedes the mailing of Notice of Abandonment. The petition filed on June 29, 2010, was dismissed on October 22, 2010.

Receipt of the Request for Continued Examination and submission under § 1.114 is acknowledged.

The address in the petition is different from the correspondence address. A courtesy copy of this decision will be mailed to the address listed in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is referred to Technology Center Art Unit 1775 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: PAULA D. MORRIS
PO BOX 420787
HOUSTON TX 77242-0787

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NOV 30 2011
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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

In re Application of	:	
Sang Jun Park et al.	:	
Application No. 11/683,960	:	DECISION ON PETITION
Filed: March 8, 2007	:	TO WITHDRAW
Attorney Docket No. AXTEC-001A	:	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 11, 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 Mark B. Garred on behalf of all attorneys/agents associated with customer number 07663. All attorneys/agents associated with customer number have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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: Axium Technologies, Inc.
110 West 26th Avenue
Kansas City, MO 64116

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/683,960	03/08/2007	Sang Jun Park	AXTEC-001A

CONFIRMATION NO. 1854

POWER OF ATTORNEY NOTICE

7663
STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

OC000000051208145

Date Mailed: 11/30/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2011.

- 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

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COATS & BENNETT/SONY ERICSSON
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

MAILED
OCT 26 2011
OFFICE OF PETITIONS

In re Application of	:	
William D. Suh	:	
Application No. 11/684,026	:	DECISION GRANTING PETITION
Filed: March 9, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PU06 0590US1/2002-439	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 23, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3677 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

In re Application of Zolfaghari	:	
Application No. 11/684,075	:	On Application For
Filing Date: March 9, 2007	:	Patent Term Adjustment
Attorney Docket No. 18177US02	:	

This is a decision on the application for patent term adjustment filed February 21, 2011. Applicant submits the correct patent term adjustment to be indicated on the patent is one thousand one hundred three (1,103) days, not six hundred fifty-five (655) as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. *See* 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant

may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATRICK W. RASCHE (22697)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis MO 63105

MAILED
NOV 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Biles et al.	:	
Application No. 11/684,179	:	DECISION ON PETITION
Filed: 03/09/2007	:	
Attorney Docket No. 225296-1 (22697-747)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 11, 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 12, 2010. On June 18, 2010, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner on the reply received on September 2, 2010.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,694,563
Issued: April 13, 2010
Application No. 11/684,243
Filed: March 9, 2007
Attorney Docket No. **854263.431**

: 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(b)" filed on June 4, 2010, which is being treated under 37 CFR §1.705(d), requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 279 days to 385 days.

The application for patent term adjustment-post grant is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred eighty-five (385) days.

On April 13, 2010, the above-identified application matured into U.S. Patent No. 7,694,563 with a revised patent term adjustment of 279 days. On June 4, 2010, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 385 days.

This application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred fifty (350) days which did not include any days of applicant delay. However, after the issuance of the patent, additional delays were recorded that revised the Patent Term Adjustment. Pursuant to 37 C.F.R. § 1.704(c)(10), periods of reduction totaling 106 days were entered for applicant filing papers after the mailing of the notice of allowance.

Patentee disputes the reduction of 106 days due to "Workflow-Drawings finished" as there were no drawings filed on December 29, 2009.

A review of the application record supports a conclusion that no drawings were filed on December 29, 2009 and that the entry of 106 days for applicant delay is erroneous. In view thereof, the patent term adjustment indicated in the patent should have been three hundred eighty-five **(385)** days.

Per the authorization accompanying the petition and pursuant to 37 CFR 1.18(e), the Office has charged petitioner's deposit account no. 19-1090 in the amount of $200.00 for the instant petition. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED EIGHTY-FIVE (385) days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,694,563 B2

DATED : April 13, 2010

INVENTOR(S) : Guido Spinola Durante

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 (279) days

Delete the phrase "by 279 days" and insert – by 385 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/14/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11684262 Patent No.: 7951803

CofC mailroom date: 11/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Please check the Specifications & Claims should these changes be made or not?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1624

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

MAILED
AUG 09 2010
OFFICE OF PETITIONS

In re Application of :
Young et al. : DECISION ON PETITION
Application No. 11/684,277 :
Filed: 03/09/2007 :
Attorney Docket No. SILA0022 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the final Office action mailed February 8, 2008, which set a three-month shortened statutory period to reply. The above-identified application became abandoned on May 9, 2008. A Notice of Abandonment was mailed on August 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2822 for appropriate action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY., SUITE 2110
AUSTIN, TX 78759

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of
Steven G. YOUNG, et *al.*
Application No. 11/684,277
Filed: March 9, 2007
Attorney Docket No. **SILA0022**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Andrew J. Dillon on behalf of all attorneys of record. Andrew J. Dillon 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 the undersigned at (571) 272-7253.

/Monica A. Graves/
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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GREENLEE SULLIVAN PC
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of Alford, et al. Application No. 11/684,319 Filed: March 9, 207 Attorney Docket No. 85-01A	DECISION GRANTING PETITION AND WITHDRAWING THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 21, 2011.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file an Appeal Brief or RCE after a Notice of Appeal. Applicant filed a Notice of Appeal on December 21, 2010. Accordingly, Applicant had a two month extendable period to file an Appeal Brief or RCE. With the maximum five month extension, the last day Applicant could have filed an Appeal Brief or RCE was July 21, 2011. The Office mailed a Notice of Abandonment on July 1, 2011, stating that no Appeal Brief or RCE had been received.

Contemporaneous with the filing of the instant petition, applicant has filed an RCE, made timely by obtaining a five month extension of time.

Accordingly, it is obvious that the Notice of Abandonment was prematurely mailed. In view thereof, the holding of abandonment is withdrawn.

The matter is being forwarded to Group Art Unit 1734 for consideration of the RCE, timely filed with a five month extension of time on July 21, 2011.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Howard B. Rockman
HOWARD B. ROCKMAN
175 WEST JACKSON BLVD., SUITE 1600
CHICAGO IL 60604-2827

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of:	:	
Robert KROUPA et al.	:	
Application No. 11/684,414	:	DECISION DISMISSING
Filing Date: May 9, 2007	:	PETITION UNDER
Attorney Docket No.: 210562.0004	:	37 CFR § 1.183
	:	

This Decision is in response to the "Petition Under 37 C.F.R. § 1.183, filed April 29, 2010, to waive of the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed there under.

The petition is **dismissed**.

The application as-filed identified two inventors as the inventive entity: Robert Kroupa (Kroupa) and Jeff Grossman (Grossman). Applicant filed a Combined Declaration of Joint Inventors Under 37 CFR 1.131, executed by only Kroupa.

Applicant files the present petition and states that the inventor Grossman is unavailable to sign the Declaration under 37 CFR 1.131.

MPEP 715.04, Swearing back of Reference, Affidavit or Declarant Under 37 CFR 1.131, provides

> The following parties may make an affidavit or declaration under 37 CFR 1.131:
> (A) All the inventors of the subject matter claimed.
> (B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.
> (C) If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate.
> (D) The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. Ex parte Foster, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).

> Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims.
> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

MPEP 409.03(d) states:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. See MPEP 409.03(d), *supra*. In this instance, petitioner asserts that inventor Grossman is unavailable. However, the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor

Grossman, such that the declaration can be accepted. Petitioner should submit copies of the e-mail correspondence with Grossman.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Medtronic, Inc. (Spinal/Haynes Boone)
710 Medtronic Parkway
Attn: Legal Patents MS: LC340
Minneapolis MN 55432-5604

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Trieu et al.	:	
Application No. 11/684,467	:	RESPONSE TO PETITION
Filed: March 9, 2007	:	
Attorney Docket No. P0027696.00	:	

This is a response to the petition under 37 CFR 1.59(b), filed May 26, 2011, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that the Response to the February 16, 2011 Office Action, which Response was filed on May 16, 2011 by Michael E. Noe, Jr., Reg. No. 44,975, be expunged from the above identified application. The petition submits that this Response was unintentionally submitted.

However, the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. Accordingly, it is not appropriate to make a final determination of whether or not the documents requested to be expunged are "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the application. Thus, the decision on the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F in MPEP 724.05 II, are satisfied, the document will be removed from the official file.

After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicants or applicants' representative. No further fee is required for such a second submission of a petition under 37 CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the present file, or file claiming priority to the present file, is forwarded for issuance of the**

patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11684477
Filing Date	09-Mar-2007
First Named Inventor	Kazufumi Kobashi
Art Unit	2176
Examiner Name	LAURIE RIES
Attorney Docket Number	10028544US01
Title	INFORMATION PROCESSING APPARATUS AND METHOD

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

- ☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ☐ Applicant(s) status remains as SMALL ENTITY.
- ☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)

○ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request,submission, and fee.

☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

○ A joint inventor; all of whom are signing this e-petition

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Jason Truong/
Name	Jason Truong
Registration Number	53704

UNITED STATES 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 15,2011

In re Application of :

Kazufumi Kobashi

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11684477

Filed : 09-Mar-2007

Attorney Docket No : 10028544US01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 15,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2176 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/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	11684514
Filing Date	09-Mar-2007
First Named Inventor	Binyamin Hajaj
Art Unit	3738
Examiner Name	MELISSA HOBAN
Attorney Docket Number	051892-0243
Title	PROSTHETIC DEVICE AND SYSTEM AND METHOD FOR IMPLANTING PROSTHETIC DEVICE

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22428

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	MAKO SURGICAL CORP.
Address	2555 DAVIE ROAD
City	FT. LAUDERDALE
State	FL
Postal Code	33317
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Rawlins, Andrew/
Name	Rawlins, Andrew
Registration Number	34702

UNITED STATES 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 30, 2011

In re Application of :

Binyamin Hajaj

Application No : 11684514

Filed : 09-Mar-2007

Attorney Docket No : 051892-0243

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 30, 2011

The request is **APPROVED.**

The request was signed by Rawlins, Andrew (registration no. 34702) on behalf of all attorneys/agents associated with Customer Number 22428 . All attorneys/agents associated with Cusotmer Number 22428 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	MAKO SURGICAL CORP.
Name2	
Address 1	2555 DAVIE ROAD
Address 2	
City	FT. LAUDERDALE
State	FL
Postal Code	33317
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

ASHLEY J. WELLS
27 OUTLOOK CIRCLE
SWANNANOA, NC 28778

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Sciuk, David	:	DECISION ON PETITION
Application No. 11/684,517	:	TO WITHDRAW
Filed: March 9, 2007	:	FROM RECORD
Attorney Docket No. 3379.2.1cip	:	

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 29, 2010.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the petitioner, Ashley J. Wells, was revoked by the applicant of the patent application on October 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JASON P. WEBB
8841 S REDWOOD RD
SUITE C
WEST JORDAN UT 84088

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of	:
Aas et al.	:
Application No. 11/684,572	: DECISION GRANTING PETITION
Filed: 11/684,572	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2800.038US1	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 21, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 11/467,502, filed August 25, 2006, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 2166 for appropriate action on the amendment filed September 21, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/684,572	03/09/2007	2166	2680	2800.038US1	31	8

CONFIRMATION NO. 3083

CORRECTED FILING RECEIPT

76287
SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000043887357

Date Mailed: 10/07/2010

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)

Arne Aas, Trondheim, NORWAY;
Gunnar Gangstoe, Trondheim, NORWAY;
Torgeir Fenheim, Trondheim, NORWAY;

Assignment For Published Patent Application

ATMEL CORPORATION, San Jose, CA

Power of Attorney: The patent practitioners associated with Customer Number 76287

Domestic Priority data as claimed by applicant

This application is a CIP of 11/467,502 08/25/2006 PAT 7,292,174

Foreign Applications

If Required, Foreign Filing License Granted: 03/22/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/684,572**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR MINIMIZING THE ACCUMULATED OFFSET ERROR FOR AN ANALOG TO DIGITAL CONVERTER

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/684,622	03/11/2007	ValentinaPulnikova	Pulnikova	3179

68380 7590 09/16/2010
DR. PULNIKOVA VALENTINA
WEIHERSTRASSE 9
VILLINGEN-SCHWENNINGEN, 78050
GERMANY

EXAMINER
KIRLIN, AMANDA C.

ART UNIT	PAPER NUMBER
3629	

MAIL DATE	DELIVERY MODE
09/16/2010	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

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SEP 16 2010

DR. VALENTINA PULNIKOVA
WEIHERSTRASSE 9
VILLINGEN-SCHWENNINGEN 78050
GERMANY

In re Application of:	:	
Valentina Pulnikova	:	
Application No. 11/684,622	:	**DECISION ON PETITION**
Filed: March 11, 2007	:	**UNDER 37 CFR 1.181**
For: SYSTEM AND METHOD OF GLOBAL	:	
ELECTRONIC JOB MARKET IN THE	:	
INTERNET		

This is a decision in response to the submission denominated "The appeal against action of examiner" received on August 20, 2010. The paper is being treated as a petition for supervisory review under 37 CFR 1.181.

The petition is **DISMISSED as moot.**

Applicant seeks supervisory review of the first Office action mailed October 5, 2009 and of the final Office action mailed March 31, 2010.

A review of the prosecution history reveals that in the first Office action mailed October 5, 2009, the examiner rejected claims 1-18. A response was received on December 17, 2009 wherein applicant cancelled claims 1-18 and introduced new claims 19-22. In the Office action mailed March 31, 2010, the examiner rejected claims 19-22 under new grounds of rejections. The March 31, 2010 Office action was made final since applicant's amendment necessitated the new grounds of rejection. On June 23, 2010, in response to the final rejection, Applicant filed a letter of an express abandoned under 37 CFR 1.138 in favor of a continuing application. A Notice of Abandonment was mailed June 25, 2010. Since the application is abandoned, the petition is dismissed as moot.

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

TL: 09/14/10

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Gulsun et al.	:	
Application No. 11/684,694	:	DECISION ON PETITION
Filed: March 12, 2007	:	
Attorney Docket No. 2006P08167US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 9, 2010, which set a shortened statutory period for reply of two (2) months. Accordingly, the above-identified application became abandoned on October 10, 2010. A Notice of Abandonment was mailed on October 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a Replacement drawing, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for further processing and review of the Replacement drawing submitted with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

K&L | GATES

FAX

Date	2011-09-13 10:00:25 CDT
Subject	Application No. 11/684,718 - Our File No. 3718582-216 - Applicant Initiated Interview Request Form
Time	2011-09-13 10:00:25 CDT
Transmit To	'Examiner Paul D'Agostino
Company/Firm	USPTO
Fax No.	15712702992
From	Julie Alonzo

COMMENTS:

Julianne R. Alonzo
Legal Secretary
K&L Gates, LLP
70 W. Madison St. - Ste. 3100
Chicago, Illinois 60602-4207
t. 312-558-7395
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julie.alonzo@klgates.com

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PTOL-413A (02-09)
Approved for use through 03/31/2009. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 11/684,718 First Named Applicant: Walker

Examiner: Paul D'Agostino Art Unit: 3716 Status of Application: Pending

Tentative Participants:

(1) Holby Abern (2) _____

(3) _____ (4) _____

Proposed Date of Interview: September 2011 **Proposed Time:** TBD **AM/PM**

Type of Interview Requested:

(1) ☑ **Telephonic** (2) ☐ **Personal** (3) ☐ **Video Conference**

Exhibit To Be Shown or Demonstrated: ☐ **YES** ☑ **NO**

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) Rejection	1	Okada & Gatto	☐	☐	☐
(2)			☐	☐	☐
(3)			☐	☐	☐
(4)			☐	☐	☐

☐ Continuation Sheet Attached

Brief Description of Argument to be Presented:

Applicant will generally discuss the claims of the present application, the prior art of Okada and Gatto and possible clarifying claim amendments, such as the proposed clarifying claim amendments to attached Claim 1. Applicant is open to discuss different/further clarifying claim amendments during the interview.

An interview was conducted on the above-identified application on _____ .

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Applicant/~~Applicant~~'s Representative Signature	Examiner/SPE Signature
Holby Abern	
Typed/Printed Name of Applicant or Representative	
47,372	
Registration Number, if applicable	

This collection of information is required by 37 CFR 1.133. 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 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PROPOSED CLAIM AMENDMENTS FOR INTERVIEW PURPOSES ONLY

Appl. No. 11/684,718

Claim 1 (currently amended): A method comprising:

causing at least one processor to execute a plurality of instructions to randomly ~~determining~~ determine an outcome for a play of a game ~~start in~~of a gaming device, said outcome associated with an award value;

providing first information to a player of the gaming device indicative of the award value associated with the randomly determined outcome, wherein the first information indicates a range of award values encompassing the award value associated with the randomly determined outcome; and

providing second information to the player of the gaming device indicating an exact amount of the award value associated with the randomly determined outcome, wherein the second information comprises an audiovisual clip repurposed from its original use for use on the gaming device.

PAGE 4/4 * RCVD AT 9/13/2011 11:00:47 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/7 * DNIS:2702992 * CSID:19078652412 * DURATION (mm-ss):02-42

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OBLON, SPIVAK, MCCLELLAND MAIER
& NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
AUG 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Yukie NISHIKAWA et al.	:	
Application No. 11/684,757	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: March 12, 2007	:	
Attorney Docket No. 305297US0RD	:	

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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SABIC Innovative Plastics - IP Legal
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

MAILED
OCT 25 2010
OFFICE OF PETITIONS

In re Application of	:	
DAVID BRUCE HALL ET AL.	:	
Application No. 11/684,882	:	DECISION ON PETITION
Filed: March 12, 2007	:	
Attorney Docket No. **134081-7**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 30, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 30, 2008. Accordingly, the date of abandonment of this application is October 31, 2008.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 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

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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INTELLECTUAL PROPERTY DEPT.
DEWITT ROSS & STEVENS SC
2 EAST MIFFLIN STREET
SUITE 600
MADISON WI 53703-2865

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Hinner	:	
Application No. 11/684,887	:	DECISION
Filed/Deposited: 12 March, 2007	:	
Attorney Docket No. 77725.004	:	

This is a decision on the petition filed on 16 February, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1]

In the event that such an inquiry has not been made, Petitioner ***must*** *make such an inquiry.*

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the Office.*

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

[1] *See* 37 C.F.R. §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the non-final Office action mailed on 3 August, 2010, with reply due absent extension of time on or before 3 November, 2010.

The application went abandoned by operation of law after midnight 3 November, 2010.

The Office mailed the Notice of Abandonment on 9 February, 2011.

On 16 February, 2011, Petitioner filed, inter alia a petition with fee pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[4]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3635 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW LLP /PULMONX 017534
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Aljuri et al.	:	DECISION ON PETITION
Application No. 11/684,950	:	TO WITHDRAW
Filed: March 12, 2007	:	FROM RECORD
Attorney Docket No. 017534-004000US	:	

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 18, 2011.

The request is **NOT APPROVED.**

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on May 18, 2011 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address (form PTO/SB/83). Specifically, pursuant to 37 CFR 10.40, 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, 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 replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. It is suggested that petitioner submit a properly completed PTO/SB/83 (form enclosed), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been

made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 20995 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed April 13, 2011 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/83

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Paper No.

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NOV 07 2011
OFFICE OF PETITIONS

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

In re Application of Bergheim et al. Application No. 11/685,025 Filed: March 12, 2007 Attorney Docket No.: 22561-7409/US/3 Title: IMPLANTABLE VALVE PROSTHESIS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 29, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

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 $3015 has been received.

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 Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

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.

It is not apparent whether the person signing the statement which asserts that small entity status was established in good faith was in a position to have firsthand or direct knowledge of the facts and circumstances of the establishment of small entity status. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such establishment. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the establishment of small entity status was not made in good faith, Petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Kyle E. Conklin
Sterne, Kessler , Goldstein & Fox
1100 New York Avenue NW
Washington, DC 20005-3934

that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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.
11/685,075	03/12/2007	Ashwin Palekar	14917.0430USC1	3986

27488 7590 02/23/2011
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
GERGISO, TECHANE

ART UNIT	PAPER NUMBER
2437	

MAIL DATE	DELIVERY MODE
02/23/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Rene' A. Pereyra
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903

In re Application of:
Palekar
Appl. No.: 11/685,075
Filed: March 12, 2007
For: **TLS Tunneling**

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the renewed petition under 37 CFR § 1.59(b), filed on 12 January 2011, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the information submitted on 23 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent and no further fee is required based on previous decision on petition dated June 11, 2008.

The test for expunging material is whether or not the information is material to the patentability of the claims. A review of the material has found that the material is not material to the patentability of the claims. Therefore, the petition is granted.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been destroyed, the artifact folder closed and therefore the material will not be returned.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

/Ted Swann/
WQAS, Technology Center 2400
Network, Multiplex, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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October 20, 2011

Tyle J. Gee
Kilpatrick Townsend & Stockton LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

Patent No. : 8,002,193 B2
Appl. No. : 11/685,109
Inventor(s) : Patrick L. Faith, et al.
Issued : August 23, 2011
Title : **PAYMENT CARD DYNAMICALLY RECEIVING POWER FROM EXTERNAL SOURCE**
Docket No. : G003-7293USO

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A petition to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 10/20/2010

Applicant	: Allen Samuels	: DECISION ON REQUEST FOR
Patent Number	: 7619545	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/685,157	: OF WYETH
Filed	: 03/12/2007	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of
Bossi et al.
Application No. 11/685,191
Filed: March 12, 2007
Attorney Docket No.:39218.00.0003

DECISION ON PETITION

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on September 20, 2010.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit a reply to the non-final Office action mailed on November 5, 2009. The Notice set an extendable three-month reply period of February 5, 2010. Accordingly, this application became abandoned on February 6, 2010. A Notice of Abandonment was mailed on July 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, terminal disclaimer and fee (2) the petition fee of $1620.00, 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 3651 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

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150 NORTH MICHIGAN AVENUE
SUITE 2700
CHICAGO IL 60601

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
John M. Jones	:	DECISION REFUSING STATUS
Application No. 11/685,401	:	ON PETITION
Filed: March 13, 2007	:	
Attorney Docket No. 2695/48783	:	

This is a decision on the petitions filed August 10, 2009 which are being collectively being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of Melanie R. Tatum , (2) a petition under 37 CFR 1.47(a) to accept this application notwithstanding the absence of the signature of a co-inventor, and (3) under 37 CFR 1.183 requesting waiver of the requirement under 37 CFR 1.64 that all the originally signing inventors also execute the supplemental oath or declaration filed August 10, 2009.

The petitions are **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §§1.47(a), 1.183 and 1.48(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration and a statement of lack of deceptive intent executed by the currently non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. In those situations where, as here, a previously signing inventor refuses to execute a supplemental oath or declaration under 37 CFR 1.64, waiver under 37 CFR 1.183 of the requirement for an additional signature would be appropriate upon a showing of such refusal or inability

to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The request under 37 CFR 1.48(a) lacks compliance with item (3).

The petition requesting waiver under 37 CFR 1.183 of the requirement in 37 CFR 1.64 for reexecution of the supplemental oath or declaration by Maung Aye Than who signed the original oath or declaration, cannot be granted at this time.

The fee for the petition under 37 CFR 1.183 has been charged to petitioner's deposit account.

On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the reexecution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration, or whether the nonsigning inventor could not be reached. In essence, petitioner must show that the inability to again obtain the signature statement from originally signing inventor Than is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or

declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee set forth in § 1.17(g); and (4) a statement of the last known address of the non-signing inventor.

The petition lacks item (4) set forth above.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Eric J. Groen
Baker & Daniels LLP
300 North Meridian Street
Suite 2700
Indianapolis, Indiana 46204

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CHICAGO IL 60601

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of:	:	
John M. Jones et al.	:	
Application No. 11/685,401	:	PETITION DECISION
Filed: March 13, 2007	:	
Attorney Docket No. 2695/48783	:	

This is a decision on the renewed petition filed October 6, 2010 which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.64 that each of the actual inventors execute the oath or declaration in the application and a decision on the petition under 37 CFR 1.48(a).

The initial petition filed August 10, 2009 was dismissed in a decision mailed August 27, 2010 for failure to provide a last known address for non-signing co-inventor. The renewed petition includes the last known address. Further the decision noted that it was in response to a petition filed under 37 CFR 1.47(a). No petition under 37 CFR 1.47(a) was filed nor does the instant renewed petition include such a § 1.47(a) petition.

The petition under 37 CFR 1.183 is **Granted**.

The petition under 37 CFR 1.48(a) is **Granted**.

As to the petition under 37 CFR 1.183:

Petitioner states that one of the originally listed inventors, Maung Aye Than refuses to sign a required supplemental declaration.

MPEP 603. states in part:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

The petition adequately shows Than refuses to execute the required supplemental declaration.

For this reason, the petition under 37 CFR 1.183 is granted.

As to the petition under 37 CFR 1.48(a):

In view of the grant of the petition under 37 CFR 1.183, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a).

The inventorship has been changed by the addition of Melanie R. Tatum.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed.

The application is being forwarded to Technology Center Art Unit 1745.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
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
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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
11/685,401	03/13/2007	1745	2932	2695/48783	24	3

CONFIRMATION NO. 4536

CORRECTED FILING RECEIPT

279
CLARK HILL PLC
150 NORTH MICHIGAN AVENUE
SUITE 2700
CHICAGO, IL 60601

OC000000043979139

Date Mailed: 10/14/2010

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)

John M. Jones, Bloomingdale, GA;
Charles R. Fetz, Savannah, GA;
Daniel J. McCormack, Rincon, GA;
Maung Aye Than, Lafayette, IN;
Melanie R Tatum, Pooler, GA;

Assignment For Published Patent Application

Great Dane Limited Partnership, Chicago, IL

Power of Attorney: The patent practitioners associated with Customer Number 00279

Domestic Priority data as claimed by applicant

This application is a CON of 10/645,920 08/20/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 03/23/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/685,401**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LINER PANEL HAVING BARRIER LAYER

Preliminary Class

156

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 : 12/16/10

TO SPE OF : ART UNIT 3637

SUBJECT : Request for Certificate of Correction for Appl. No.: 11685465 Patent No.: 7748803

CofC mailroom date:
12/07/10

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
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

x **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Darnell Jayne/

SPE Art 3637 Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/8/2011

Patent No. :7962328
Inventor(s) :Daniel w. Corwin
Issued :6/14/2011
Title :METHOD AND APPARATUS FOR GENERATING A COMPACT DATA STRUCTURE TO IDENTIFY THE MEANING OF A SYMBOL
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 item [75], and other publications is printed in accordance with the record and there is a $100 fee required to make thoses corrections these are applicant mistakes. 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

Robert Plotkin, P.C.
15 New England Executive Park
Burlington, MA 01803

HR

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.
11/685,588	03/13/2007	Kazuhiro Sugawara	03500.015492.4	4872

5514 7590 12/21/2010
FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

EXAMINER
NGUYEN, QUANG N

ART UNIT	PAPER NUMBER
2441	

MAIL DATE	DELIVERY MODE
12/21/2010	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

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

In re Patent No. SUGAWARA ET AL. Appl No.: 11/685,588 Filed: March 13, 2007 For: **IMAGE COMMUNICATION APPARATUS, IMAGE COMMUNICATION METHOD, AND MEMORY MEDIUM**	**DECISION ON PETITION UNDER 37 C.F.R. § 1.181**

This is a decision on the petition filed Oct 15, 2010 under 37 CFR § 1.181 to invoke Supervisory Authority and require the Examiner to withdraw the Finality of office action mailed July 01, 2010.

A review of the prosecution history indicated that on Oct 29, 2010, a new Final action was mailed after the Advisory of Oct 28, 2010, in effect, vacated the Final action of July 01, 2010.

The petition is **DISMISSED as MOOT**.

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

/Kim Huynh/

Kim Huynh, WQAS
Technology Center 2400
Network, Multiplexing, Cable and
Information Security

Best Available Copy

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 1 1 2010

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Kurt HANSEN	:	DECISION ON PETITION
Application No. 11/685,666	:	TO WITHDRAW OF
Filed: March 13, 2007	:	OFFICE ACTION
For: METHODS AND SYSTEMS	:	UNDER 37 C.F.R. 1.181
FOR COORDINATING POOLED	:	
FINANCIAL TRANSACTIONS	:	

This is in response to applicant's petition under 37 CFR 1.181 filed on April 19, 2010 requesting withdrawal of the finality of the Office action mailed February 19, 2010 as being premature, and that a new non-final Office action be issued.

The petition is **DISMISSED AS MOOT.**

Applicant alleges that the final rejection mailed February 19, 2010 was premature since the new grounds of rejection in the April 14, 2010 Office action were not necessitated by Applicant's amendment.

MPEP 706.07(a) sets forth that "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). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP § 609.04(b)."

Best Available Copy

A review of the record indicates that the examiner has already withdrawn finality of the Office action and issued a new, non-final rejection on May 14, 2010. Therefore, applicant's request to withdraw the finality of the February 19, 2010 Office action is dismissed as moot.

Any questions regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at 571-272-6867.

Wynn Coggins, Director
Patent Technology Center 3600
571-272-5350

lm: 8/6/10
LM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : August 24, 2011

Patent No. :7974577
Ser. No. :11685690
Inventor(s) :Stephens Jr. Kenneth D.
Issued :July 5, 2011
Title :DEVICES AND SYSTEMS FOR IMPOVED WIRELESS COMMUNICATION

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

Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614-2558

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

ORRICK, HERRINGTON
& SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
2050 MAIN STREET, SUITE 1100
IRVINE CA 92614

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Patent No. 7,974,577	:	
Issue Date: 5 July, 2011	:	
Application No. 11/685,690	:	ON PETITION
Filed: 13 March, 2007	:	
Attorney Docket No. 22841.4001	:	

This is a decision on the petition filed 8 September, 2011, to issue a certificate of correction pursuant to 37 C.F.R. §1.322, but from the averments and information of record properly considered to waive the rules pursuant to 37 C.F.R. §1.183 and accept the correction of the assignee on the front page of the above-identified patent pursuant to 37 C.F.R. §1.323 and §3.81(a).

NOTE:

The requirements of the instant matter are set forth in the Commentary at MPEP §307 and §1480-§1485—Petitioner must provide not only the statement and showings, but also the proper fees and a showing that the assignment pursuant to which Petitioner seeks a change, was recorded with the Office before issue.

The requirements include but are not limited to:

> If a request for issuance to an assignee pursuant to 37 C.F.R. §3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 C.F.R. §3.81(b) must include a request for a certificate of correction under 37 C.F.R. §1.323 (accompanied by the fee set forth in 37 C.F.R. §1.20(a)) and the processing fee set forth in 37 C.F.R. §1.17(i).

Petitioner failed to pay all fees, but did authorize unpaid fees to be charged to Petitioner's deposit account, and those fees are now charged as authorized. Petitioner is respectfully requested to be attentive to these matters in the future.

Patent No. 7,974,577
Application No. 11/685,690

The instant petition may not have been directed to the Office of Petitions for consideration and determination when the petition was submitted.

Petitioner might find it beneficial to inquire should a petition not be decided within 90-120 days, since almost all petitions are addressed by the Office of Petitions well within that time frame.

The petition is **GRANTED**.

Petitioner requests issuance of a certificate of correction substituting the name of "RMAX, LLC,."

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. (See: the regulations The regulations at 37 C.F.R. §3.81(b) and the guidance in the Commentary at MPEP §307.)

Petitioner appears to have submitted documents supporting/evidencing the assignment in question at Reel/Frame 019031/0499 on 19 March, 2007. That assignment indicates the assignee to be identified therein to be: **RMAX, LLC, Shawnee Mission, Kansas (US)**.

Thereafter the patent issued on 5 July, 2011, as indicated above. (*See*, generally in this regard: MPEP §307.)

Petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application. The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

Out of an abundance of caution, Petitioners always are reminded that 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.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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[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).

Patent No. 7,974,577
Application No. 11/685,690

Accordingly, because the request complies with the provisions of 37 C.F.R. 3.81(b), it is appropriate for a certificate of correction to be processed.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

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).

Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUNEAU PARTNERS
333 N. FAIRFAX STREET
SUITE 305
ALEXANDRIA, VA 22301

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of
Ricardo Avila
Application No. 11/685,758
Filed: March 13, 2007
Attorney Docket No. KIT-PAT-002

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 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 Non-provisional Application (Notice), mailed March 28, 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 May 29, 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).

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, petitioner has failed to submit the requires substitute specification and abstract as required by the outstanding Notice mailed March 28, 2007. A courtesy copy of the Notice to Filed Missing Parts of Non-provisional Application is being mailed with

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) 272-1642. All other inquiries concerning this application should be directed to the Office of Patent Application Processing at their hotline 571-272-4000.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: a copy of the Office action mailed March 28, 2007.

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	ATTORNEY DOCKET NUMBER
11/685,758	03/13/2007	Ricardo Avila	KIT-PAT-002

CONFIRMATION NO. 5191

FORMALITIES LETTER

50438
JUNEAU PARTNERS
P.O. BOX 2516
ALEXANDRIA, VA 22301

Date Mailed: 03/28/2007

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing. *A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
  Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The substitute specification must be accompanied by a marked up copy as set forth in 37 CFR 1.125(c) and a statement that the specification contains no new matter (see 37 CFR 1.125(b)). The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
  - The line spacing on the specification, claims, or abstract is not 1½ or double spaced (see 37 CFR 1.52(b)).
  - The specification contains drawings or flow diagrams (37 CFR 1.58(a)) on page(s) PAGE 6,9. Drawings or flow diagrams cannot be embedded in the specification and should be submitted separately in accordance with 37 CFR 1.84. (Both a substitute specification in compliance with 37 CFR 1.125 and new drawings in compliance with 37 CFR 1.84 and 1.121(d) are required).

- An abstract of the technical disclosure not exceeding 150 words in length and commencing on a separate sheet in compliance with 37 CFR 1.72(b) is required. An abstract was not provided for this application.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.16(f) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$415** for a small entity

- **$65** Surcharge.
- The application search fee has not been paid. Applicant must submit **$250** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **$100** to complete the examination fee for a small entity in compliance with 37 CFR 1.27.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
PART 3 - OFFICE COPY

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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JUNEAU PARTNERS
333 N. FAIRFAX STREET
SUITE 305
ALEXANDRIA, VA 22301

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of
Ricardo Avila
Application No. 11/685,758
Filed: March 13, 2007
Attorney Docket No. KIT-PAT-002

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed March 28, 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 May 29, 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 reply, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to 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 at of the reply received December 10. 2010 and February 8, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUL 14 2011
OFFICE OF PETITIONS

NEC LABORATORIES AMERICA, INC.
4 INDEPENDENCE WAY
Suite 200
PRINCETON NJ 08540

In re Application of	:	
Guofei Jiang et al.	:	
Application No. 11/685,805	:	DECISION ON PETITION
Filed: March 14, 2007	:	
Attorney Docket No. 06026	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 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, October 6, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 7, 2011. 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 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on June 28, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2123 for appropriate action by the Examiner in the normal course of business on the reply received June 28, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/21/2011

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/685879 Patent No.: 7789296 B2

CofC mailroom date: 3/9/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

The amendment is acceptable, as the changes were approved in the 312 amendment filed on December 16, 2010.

/Walter D. Griffin/
SPE

1774
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
JUL 26 2011
OFFICE OF PETITIONS

JACOBS & KIM LLP
1050 WINTER STREET
SUITE 1000, #1082
WALTHAM, MA 02451-1401

In re Application of	:	
POWELL, A. Leigh et al.	:	
Application No. 11/685,959	:	DECISION ON PETITION
Filed: March 14, 2007	:	TO WITHDRAW
Attorney Docket No. **IMNY-201**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 18, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that a change of address has been previously processed. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **STACEY RABBINO, ESQ., GENERAL COUNSEL**
IMANY
37TH FLOOR
1735 MARKET STREET
PHILADELPHIA PA 19103

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 28, 2010

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No/11686010 / 7436048

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: The changes are approved as the added portion was originally presented in the original claims.

/Matthew S. Smith/ 2823

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GROUPON/BHGL
P.O. BOX 10395
CHICAGO, IL 60610

MAILED
NOV 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	
Application No. 11/686,077	:	DECISION ON PETITION
Filed: March 14, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14466/342 (00-006-C1)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 21, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

The revocation/power of attorney/change of correspondence address, filed October 21, 2011, has been entered and made of record. Please find enclosed a notice reflecting the change.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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 3682 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ENCLOSURES: Corrected Filing Receipt
Notice of Acceptance of Power of Attorney

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
11/686,077	03/14/2007	3682	5500	00-006-C1	98	6

CONFIRMATION NO. 5724

CORRECTED FILING RECEIPT

22927
WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

OC000000050790948

Date Mailed: 11/03/2011

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)

Jay S. Walker, Ridgefield, CT;
Andrew S. Van Luchene, Norwalk, CT;
Jonathan Otto, Stamford, CT;
Magdalena Mik, Greenwich, CT;
Daniel E. Tedesco, Westport, CT;
Andrew P. Golden, New York, NY;
Russell Pratt Sammon, Stamford, CT;

Power of Attorney: The patent practitioners associated with Customer Number 22927

Domestic Priority data as claimed by applicant

This application is a CON of 09/540,214 03/31/2000 ABN
which is a CIP of 09/337,906 06/22/1999 PAT 6,754,636
which is a CIP of 09/190,744 11/12/1998 ABN
which is a CIP of 08/707,660 09/04/1996 PAT 5,794,207
and said 09/337,906 06/22/1999
is a CIP of 09/083,345 05/22/1998 ABN
and is a CIP of 08/889,503 07/08/1997 PAT 6,249,772
and is a CIP of 08/889,319 07/08/1997 PAT 6,085,169

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: 03/24/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/686,077**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

METHOD AND APPARATUS FOR CONDUCTING A TRANSACTION BASED ON BRAND INDIFFERENCE

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

DATE : 09/25/11

TO SPE OF : ART UNIT 3717

SUBJECT : Request for Certificate of Correction for Appl. No.: 11686181 Patent No.: 7963835

CofC mailroom date: 09/19/11

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
You can fax the Directors/SPE response to 571-273-3421

Note: _

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Melba Bumgarner 9/29/11 3717

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Henry Whitfield	:	
Application No. 11/686,239	:	DECISION ON PETITION
Filed: March 14, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 08-506-US-CON	:	

This is a decision in response to the petition, filed November 5, 2010, under the provisions of 37 CFR 1.182 to expedite consideration of a petition, filed October 22, 2010, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petitions are **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.

Further, the non-provisional 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. In this case the benefit to the provisional application was granted in the intermediate application by way of a Certificate of Correction.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 3621 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Thereafter, the case will be returned to the Office of Data Management to await receipt of the requisite issue fees.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/686,239	03/14/2007	3621	552	08-506-US-CON	23	2

CONFIRMATION NO. 6030

CORRECTED FILING RECEIPT

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

OC000000044760711

Date Mailed: 12/02/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Henry Whitfield, Palo Alto, CA;

Power of Attorney: The patent practitioners associated with Customer Number 20306

Domestic Priority data as claimed by applicant

This application is a CON of 09/472,100 12/20/1999 PAT 7,209,889
which claims benefit of 60/113,706 12/24/1998

Foreign Applications

If Required, Foreign Filing License Granted: 03/27/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/686,239**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SECURE SYSTEM FOR THE ISSUANCE, ACQUISITION, AND REDEMPTION OF CERTIFICATES IN A TRANSACTION NETWORK

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

DATE : 1/5/2012

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/686282 Patent No.: 8033298 B2

CofC mailroom date: 12/12/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

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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:

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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: _____

_____

_____

_____

_____

Stephen Hepperle
SPE

3753
Art Unit

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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.
11/686,387	03/15/2007	James E. Goldman	25040-1883	6298

29052 7590 03/30/2011
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

EXAMINER
MAUST, TIMOTHY LEWIS

ART UNIT	PAPER NUMBER
3751	

MAIL DATE	DELIVERY MODE
03/30/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Inventorship

In view of the papers filed 6/15/09, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding inventor **Nilang Patel**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

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.

/Timothy L Maust/
Primary Examiner
Art Unit 3751

3/30/11

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MAR 22 2011

PCT LEGAL ADMINISTRATION

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND OH 44114-2378

In re Application of:
McGuire, Heather, A., et al.
U.S. Application No.: 11/686,394
Filing Date: March 15, 2007
Attorney's Docket No.: 31867-16
For: SOCIAL NETWORK ANALYSIS

DECISION
(37 CFR 1.78(a)(3))

This is a decision on the "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 120, 121, OR 365(C) FOR THE BENEFIT OF A PRIOR-FILED APPLICATION" filed November 30, 2010, considered herein under 37 CFR 1.78(a)(3). The petition seeks to add to the present application a benefit claim identifying the application as a continuation of prior-filed international application PCT/US2004/030259.

The petition is **GRANTED**.

The petition mechanism set forth in 37 CFR 1.78(a)(3) applies where, as here, an application was filed on or after November 29, 2000 and, after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii), the applicant seeks to add a benefit claim under 35 U.S.C. 120 and 365(c) directed to a prior-filed international application designating the United States.

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), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

The present petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that: (1) a proper reference identifying the present application as a continuation of the prior-filed international was included in the amendment to the first sentence of the specification filed August 31, 2009; (2) applicants have submitted payment of the required surcharge; and (3) the petition includes a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of the unintentionally delayed benefit claim under

35 U.S.C. 120 and 365(c) to the prior filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is appropriately granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed international application under 37 CFR 1.78(a)(3) 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. 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include 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 applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed international application, accompanies this decision.

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2164 for examination and for appropriate consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. 120 and 365(c) to the prior-filed international application.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
(571) 272-3296

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/686,394	03/15/2007	2157	1140	31867-16	30	7

CONFIRMATION NO. 6311

CORRECTED FILING RECEIPT

21130
BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND, OH 44114-2378

OC000000046692778

Date Mailed: 03/22/2011

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)

Heather A. McGuire, Plymouth Meeting, PA;
Michael J. Markus, Plymouth Meeting, PA;
Peter M. Kionga-Kamau, Charlottesville, VA;
Brian N. Smith, Plymouth Meeting, PA;

Power of Attorney: The patent practitioners associated with Customer Number 21130

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US04/30259 09/15/2004

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: 03/24/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/686,394**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

SOCIAL NETWORK ANALYSIS

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND, OH 44114-2378

In re Application of	:	
Heather A. McGuire, et al.	:	
Application No. 11/686,401	:	ON PETITION
Filed: March 15, 2007	:	
Attorney Docket No.: 31867-15	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 8, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 9, 2010. This decision precedes the mailing of a Notice of Abandonment.

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 September 9, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2157 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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CLEVELAND OH 44114-2378

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MAR 23 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
MARKUS et al.	:	DECISION ON PETITIONS
Application No.: 11/686,409	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No.: 31867-12	:	UNDER 37 CFR 1.78(a)(6)
For: COLLECTIONS OF LINKED	:	
DATABASES	:	

This is a decision on the petition filed November 15, 2010, which has properly been treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed international and provisional applications set forth in the amendment filed August 24, 2010.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international applications and provisional application 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 Director may require additional where there is a question whether the delay was unintentional.

The petition fails to 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 application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11. The amendment filed August 24, 2010 identifies the relationship between the instant application and international application PCT/US2005/005847. However, it fails to identify the relationship to the two other international applications to which priority is claimed.[1] Accordingly, the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and a proper amendment (complying with the provisions of 37 CFR 1.121) or supplemental application data sheet (37 CFR 1.76) 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.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of Patent Cooperation Treaty
Legal Administration

[1] It appears that applicant is seeking to claim domestic benefit to the two international applications for which the proper relationship is not specified. A petition to accept the international applications as claims for foreign priority under 37 CFR 1.55(c) has not been filed. Additionally, the declaration of inventors does not include any foreign priority claims. Accordingly, a relationship under 35 U.S.C. 120 for the two additional international applications must be specified.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/03/10

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11686412 Patent No.: 7768397

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**.

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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: _____

/Benjamin C. Lee/ _ 2612
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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CLEVELAND OH 44114-2378

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JUL 01 2011

PCT LEGAL ADMINISTRATION

In re Application of	
Markus et al.	: DECISION ON PETITION
Application No. 11/686,416	:
Filed: March 15, 2007	: UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 31867-18	:

This is a decision on the petition under 37 CFR 1.78(a)(3), treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 30 November 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of prior-filed international application PCT/US2005/006617and provisional application 60/652,661, as set forth in the amendment filed on 27 November 2009.[1]

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

---

[1] The amendment also identifies, and claims priority to, three other prior filed international applications: PCT/US2005/005847, PCT/US2004/038064, and PCT/US2004/030259. These applications were identified in the originally filed specification. It is presumed that applicants' are claiming *foreign* priority to these applications pursuant to 35 U.S.C. 365(a) and 37 CFR 1.55, as applicants have not specified any relationship of PCT/US2005/006617 to these prior filed applications as required under 35 U.S.C. 120 and 37 CFR 1.78. Applicants should note that foreign priority claims **MUST** be identified in an oath, declaration, or application data sheet. See 37 CFR 1.63(c)(2).

(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 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) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii) and (2) the surcharge required by 37 CFR 1.17(t) has been submitted. With regard to item (3), Petitioners' statement that "[t]he entire delay between the date the claim was due under paragraph 37 CFR (a)(2)(ii) and the date the claim was filed was unintentional" is construed to mean that "[t]he entire delay between the date the claim was due under paragraphs 37 CFR (a)(2)(ii) and (a)(5)(ii) and the date the claim was filed was unintentional." If this is incorrect, Petitioners **MUST IMMEDIATELY** notify of the Office of PCT Legal Administration. As so construed, the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to George Dombroske at the number

given below. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2157 for examination, in due course, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed international and provisional applications.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
(571) 272-3283

/Boris Milef/
Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT and TRADEMARK OFFICE

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BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND OH 44114-2378

MAILED
APR 11 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
Markus et al	:	
Application No.: 11/686,421	:	
Filing Date: 15 March 2007	:	PETITION UNDER
Attorney's Docket No.: 091939-605014	:	
For: COLLECTIONS OF LINKED DATABASES	:	37 CFR 1.78(a)(3)

This is in response to applicants' communication "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 USC 120, 121 OR 365(C) FOR THE BENEFIT OF A PRIOR-FILED APPLICATION," which is being treated as a petition under 37 CFR 1.78(a)(3) filed 14 October 2010.

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 paragraph (a)(2) of this section to the prior filed application, unless previously submitted:

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) of this section 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.

Regarding requirement (1), a proper reference to the prior-filed applications have been included in an amendment filed on 28 December 2009 to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

Regarding requirement (2), the surcharge has been provided.

Regarding requirement (3), the statement that, [t]he entire delay between the date the claim was due under paragraph 37 CFR (a)(2)(ii) and the date the claim was filed was unintentional" is being construed as a statement that "the entire delay between the date the claim was due under 37 CFR §1.78(a)(2)(ii) of this section and the date the claim was filed was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct.

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 and 365(c) to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

It is noted that priority is additionally being claimed to the earlier international applications PCT/US2004/038064 and PCT/US2005/006617. These will appear as foreign priority claims on the accompanying filing receipt, as the reference required under 35 USC 120 and 37 CFR 1.78(a)(2) for domestic benefit has not been made. Applicants should further note that foreign priority claims must be identified in the oath or declaration (37 CFR 1.63) or in an application data sheet (ADS) (37 CFR 1.76). In addition, certified copies of the foreign priority documents are required under 37 CFR 1.55.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition include the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any questions concerning this matter may be directed to Rafael Bacares at (571) 272-3276. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application will be forwarded to Technology Center Art Unit 2164 for examination in due course.

Rafael Bacares
Legal Examiner
PCT Legal Administrative Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Boris Milef
Legal Examiner
PCT Legal Administrative Office

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ARONOFF LLP
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CLEVELAND OH 44114-2378

MAILED
MAR 23 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
MARKUS et al.	:	DECISION ON PETITION
Application No.: 11/686,429	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 31867-14	:	
For: COLLECTIONS OF LINKED	:	
DATABASES	:	

This is a decision on the submission filed October 19, 2010, which has properly been treated as a petition under 37 CFR § 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of the prior-filed applications set forth in the amendment filed February 22, 2010.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international 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 where there is a question whether the delay was unintentional.

The petition fails to 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 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 February 22, 2010 identifies the relationship between the instant application and international application PCT/US2005/015952. However, it fails to identify the relationship to the two other international applications to which priority is claimed.[1] Accordingly, the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Also, page 1 of the specification filed 15 March 2007 contains a total of four paragraphs claiming benefit to earlier filed applications. The first paragraph is the paragraph amended on February 22, 2010, discussed above. The remaining three paragraphs claim priority to numerous international applications and one provisional application. The benefit claims in these paragraphs do not comply with 37 CFR 1.78. As discussed above, a relationship under 35 U.S.C. 120 for the international applications referred to in these paragraphs must be specified.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78 and a proper amendment (complying with the provisions of 37 CFR 1.121) or supplemental application data sheet (37 CFR 1.76) 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.

/Daniel Stemmer/
Daniel Stemmer
PCT Legal Examiner
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

/Boris Milef/
Boris Milef
PCT Legal Examiner
Office of Patent Cooperation Treaty
Legal Administration

[1] It appears that applicant is seeking to claim domestic benefit to the two international applications for which the proper relationship is not specified. A petition to accept the international applications as claims for foreign priority under 37 CFR 1.55(c) has not been filed. Also, the declaration of inventors does not include any foreign priority claims. Further, these international applications further claim priority to earlier applications, as indicated in the 1st page of the specification. Accordingly, a relationship under 35 U.S.C. 120 for the two additional international applications must be specified.

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Whyte Hirschboeck Dudek S.C. /
The Dow Chemical Company
555 East Wells Street, Suite 1900
Milwaukee WI 53202-3819

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of	:	
LI PI SHAN et al.	:	
Application No.: 11/686,444	:	DECISION DISMISSING PETITIONS
Filed: March 15, 2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: DOW-36269-A	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 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 nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1). In reviewing the chain of applications to which petitioner is seeking a claim for priority, it does not appear that international application serial

number PCT/US2005/00817 shares an inventor in common with application serial number 11/377,725. *See* MPEP 201.11 IV. Same inventor or inventors. Petitioner should provide the correct serial number for the international application.

Further, a nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. 119(e) must be filed within 12 months from the filing date of the provisional application. Here, it is unclear which non-provisional application is claiming priority to the provisional application serial numbers 60/717,863 and 60/553,906. PCT/US2005/00817 was filed before the filing date of provisional application 60/717,863 and can not claim priority to this provisional application.

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Buczo
Petitions Examiner
Office of Petitions

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The Dow Chemical Company
555 East Wells Street, Suite 1900
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MAILED

SEP 14 2011

OFFICE OF PETITIONS

In re Application of	:	
LI PI SHAN et al.	:	
Application No.: 11/686,444	:	DECISION DISMISSING PETITIONS
Filed: March 15, 2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: DOW-36269-A	:	

This is a decision on the amended petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 29, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1). The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in

compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Further, a nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. 119(e) must be filed within 12 months from the filing date of the provisional application. Here, it is unclear which non-provisional application is claiming priority to the provisional application serial numbers 60/717,863 and 60/553,906. PCT/US2005/00817 was filed before the filing date of provisional application 60/717,863 and can not claim priority to this provisional application.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121.and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Buczo
Petitions Examiner
Office of Petitions

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NOV 08 2011
OFFICE OF PETITIONS

In re Application of	:	
LI PI SHAN et al.	:	
Application No.: 11/686,444	:	DECISION DISMISSING PETITIONS
Filed: March 15, 2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: DOW-36269-A	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 24, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1). The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by

reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

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Petitions Examiner
Office of Petitions

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MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Application of
LI PI SHAN et al.
Application No. 11/686,444
Filed: March 15, 2007
Docket No.: DOW-36269-A

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 15, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications as set forth in the currently filed 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 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 Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1762 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.

Jose' G Dees
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/686,444	03/15/2007	1762	4890	DOW-36269-A	36	4

CONFIRMATION NO. 6387

CORRECTED FILING RECEIPT

29423
Whyte Hirschboeck Dudek S.C. /
The Dow Chemical Company
555 East Wells Street, Suite 1900
Milwaukee, WI 53202-3819

OC000000051928786

Date Mailed: 01/11/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Colin Li Pi Shan, Pearland, TX;
Lonnie G. Hazlitt, Lake Jackson, TX;
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Edmund M. Carnahan, Fresno, TX;
XiaoHua Qiu, Midland, MI;
Angela N. Taha, Missouri City, TX;

Assignment For Published Patent Application

Dow Global Technologies Inc., Midland, MI

Power of Attorney: The patent practitioners associated with Customer Number 29423

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/782,746 03/15/2006
and is a CIP of 11/377,725 03/15/2006 PAT 7504347
which is a CIP of PCT/US05/08917 03/17/2005
which claims benefit of 60/553,906 03/17/2004
and said 11/377,725 03/15/2006
claims benefit of 60/717,863 09/16/2005

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 04/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/686,444**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Propylene/Alpha-Olefins Block Interpolymers

Preliminary Class

526

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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AUG 02 2010

OFFICE OF PETITIONS

HOLME ROBERTS & OWEN LLP – CLIENT-1
1700 LINCOLN STREET, SUITE 4100
DENVER, CO 80203

In re Application of	:	
David R. HALL, et al	:	
Application No. 11/686,638	:	NOTICE
Filed: March 15, 2007	:	
Attorney Docket No. 85.0131	:	

This is in response to the paper filed June 11, 2010, under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the request, status as a Small Entity has been removed.

The Power of Attorney filed on June 11, 2010, has been made of record.

Telephone 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP
333 BRIDGE STREET, NW
P.O. BOX 352
GRAND RAPIDS MI 49501-0352

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APR 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Norman R. BRYNE	:	DECISION GRANTING PETITION
Application No. 11/686,727	:	UNDER 37 CFR 1.137(b)
Filed: March 15, 2007	:	
Atty. Docket No.: Byrne P239US2-CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed March 23, 2010 ("outstanding Office action"), which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application thus became abandoned on June 24, 2010, and a Notice of Abandonment was mailed October 12, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, (2) a petition fee of $810, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See*, In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats 1988). Since the $1175 extension of time fee submitted with the

petition on January 14, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

There is no indication that the pérson signing the instant Petition was given a power of attorney or authorization of agent to prosecute the Application. Further, it is not apparent whether the signer of the Petition was in a position to have firsthand 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 the delay. *See,* 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (10 October 1997), 1203 Off. Gaz. Pat. Office 63, 103 (21 October 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.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 3742 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

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Vedder Price PC
222 NORTH LASALLE STREET
CHICAGO IL 60601

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FEB 21 2012
OFFICE OF PETITIONS

In re Application of	:	
Mary Hamilton, et al.	:	
Application No. 11/686,728	:	DECISION GRANTING PETITION
Filed: March 15, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **33836.00.0141**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 20, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 6, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2174 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

OK TO ENTER: /E.O./

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,820,883
APPLICATION NO. : 11/686,844
ISSUE DATE : October 26, 2010
INVENTORS : Walsh *et al.*

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims:

In Claim 5 (Col. 77, line 35), "claim 3" should be --claim 4--.

MAILING ADDRESS OF SENDER:
Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 SW Salmon Street
Portland Oregon, 97204

OK TO ENTER: /E.O./

GKS/TMH:rmp 2/18/11 64040A-US-NP 1694252 Attorney's Matter No. 7896-72581-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of: Walsh *et al.*
Patent No. 7,820,883
Issued: October 26, 2010
Application No. 11/686,844
Filed: March 15, 2007
Confirmation No. 7100
For: RESISTANCE TO AUXINIC HERBICIDES
Examiner: Eileen B. O'Hara
Art Unit: 1638
Attorney Reference No. 7896-72581-02

FILED VIA EFS

FILED VIA ELECTRONIC FILING SYSTEM
COMMISSIONER FOR PATENTS

REQUEST FOR CERTIFICATE OF CORRECTION

The following error was noted in the above patent:

In the Claims:

In Claim 5 (Col. 77, line 35), "claim 3" should be --claim 4--.

Since the error is not attributable to the Patent Office, submitted herewith is the fee of $100.00 pursuant to 37 C.F.R. 1.20(a). The preceding correction remedies a mistake of a typographical nature and/or minor character. A proposed Certificate of Correction is submitted to make formal notice of the error in the referenced patent. Applicants request that the Patent Office provide a formal Certificate of Correction to correct the error noted herein.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301
cc: Docketing

By /Gregory K. Scott/
Gregory K. Scott, Ph.D.
Registration No. 60,185

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/686,844	15 March, 2007	WALSH ET AL.	7896-72581-02

	EXAMINER	
Klarquist Sparkman, LLP 121 SW Salmon Street Suite 1600 Portland, OR 97204	EILEEN B. O HARA	
	ART UNIT	PAPER
	1638	20110526

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

REQUEST FOR CERTIFICATE OF CORRECTION

The request for correction of claim 5 in the request for certificate of correction filed February 21, 2011 has been approved.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen B. O'Hara whose telephone number is (571) 272-0878. The examiner can normally be reached on 9:00-5:30 M-F.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975.
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://portal.uspto.gov/external/portal/pair. 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.

/Eileen B. O'Hara/
Primary Examiner
Art Unit 1638

/EILEEN B O HARA/
Primary Examiner, Art Unit 1638

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110526

DATE : March 04, 2011

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7,820,883

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:

/ANNE GRUNBERG/
Supervisory Patent Examiner.Art Unit 1638

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OCT 06 2010

OFFICE OF PETITIONS

In re Application of :
Yu et al. :
Application No. 11/686,852 : ON APPLICATION FOR
Filed: 03/15/2007 : PATENT TERM ADJUSTMENT
Attorney Docket No. 17796US02 :

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 June 25, 2010, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 601 days, not 397 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OPX BIOTECHNOLOGIES, INC.
2425 55TH STREET, STE.
#100
BOULDER CO 80301

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NOV 09 2010
OFFICE OF PETITIONS

In re Application of	:	
Gill et al.	:	
Application No. 11/686,864	:	ON PETITION
Filed: March 15, 2007	:	
Attorney Docket No. 66888-351974	:	

This is a notice regarding your request, October 14, 2010, 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,750,657	:
Schmidt, et al.	: DECISION ON APPLICATION
Issued: July 6, 2010	: FOR PATENT TERM
Application No. 11/686,868	: ADJUSTMENT AND NOTICE OF
Filed: March 15, 2007	: INTENT TO ISSUE CERTIFICATE
Attorney Docket No. 11078/AGS/	: OF CORRECTION
22558-0052001	

This is in response to the "Letter Regarding Patent Term Adjustment", filed August 20, 2010, which will be treated as a petition under 37 CFR 1.705(d). Patentees assert that the revised Determination of Patent Term Adjustment under 35 U.S.C. 154(b) is longer than appropriate.

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 **zero (0) days is GRANTED TO THE EXTENT INDICATED HEREIN.**

On June 16, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment was 143 days. On August 20, 2010, patentees submitted the instant petition. Patentees maintain that the patent term adjustment indicated on the Determination of Patent Term Adjustment is longer than appropriate. Specifically, patentees reference Information Disclosure Statements filed December 10, 2009, and March 22, 2010, for which an accurate reduction to the patent term adjustment was not entered.

Patentees' arguments have been considered and are well taken.

The record reflects that on December 10, 2009, patentees submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) after filing a reply to a non-final Office action on September 11, 2009. The record does not support a conclusion that the examiner expressly requested

the filing of the IDS. Further, a review of the IDS, filed December 10, 2009, reveals that patentees did not include a statement under 37 CFR 1.704(d).[1] Thus, patentees failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 90 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, September 12, 2009, and ending on the date that the IDS was filed, December 10, 2009. **A period of reduction of 90 days will be entered accordingly.**

It is noted that entry of a reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10)[2] of 81 days is warranted for the filing of an Information Disclosure Statement (IDS) on March 22, 2010, after the mailing of the Notice of Allowance on December 22, 2009.

---

[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.

[2] It is noted that 37 CFR 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that patentees filed the IDS after the mailing of the notice of allowance. However, a review of the IDS filed on March 22, 2010, reveals that it did not include a § 1.704(d) statement. Accordingly, the filing of the IDS on March 22, 2010, is considered a failure to conduct reasonable efforts to conclude prosecution of application warranting a reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10). **Thus, the period of reduction to the patent adjustment of 81 days is being entered, with said period beginning on March 22, 2010, and ending on June 10, 2010**[3].

In view thereof, the revised determination of the patent term adjustment is **0 days** (161 days of Office delay - 0 days of overlap - 172 days of applicant delay).

Deposit account 06-1050 will be charged $200.00 for the fee set forth under 37 CFR 1.18(e).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **zero (0) days**.

---

[3] The period of reduction of 17 days entered fro the filing of the Information Disclosure Statement on March 22, 2010, is being removed as this period was incorrectly calculated using the dates of March 22, 2010, ending April 7, 2010. It is noted that the USPTO response to the IDS was mailed on June 7, 2010, not April 7, 2010.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,750,657 B2

DATED : Jul. 6, 2010

INVENTOR(S) : Schmidt, 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 (143) days

Delete the phrase "by 143 days" and insert – by 0 days--

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Karaoguz et al.	:	
Application No. 11/686,876	:	DECISION GRANTING PETITION
Filed: March 15, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 17380US03	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 11/189,634, filed July 26, 2005, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority

under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 2611 for appropriate action on the amendment filed July 27, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Walsh
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
11/686,876	03/15/2007	2611	1200	17380US03	24	3

CONFIRMATION NO. 7157

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000043196729

Date Mailed: 08/24/2010

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)

Jeyhan Karaoguz, Irvine, CA;
Hooman Honary, Newport Coast, CA;
Nambirajan Seshadri, Irvine, CA;
Jason A. Trachewsky, Menlo Park, CA;
Arie Heiman, Rannana, ISRAEL;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CIP of 11/189,634 07/26/2005 PAT 7,706,481
and claims benefit of 60/893,299 03/06/2007

Foreign Applications

If Required, Foreign Filing License Granted: 04/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/686,876**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR REDUNDANCY-BASED DECODING OF VIDEO CONTENT IN A WIRELESS SYSTEM

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
DEC 12 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Heiman et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 11/686,882	:	
Filed: March 15, 2007	:	
Atty Docket No. **17634US01**	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.78(a)(3) TO ACCEPT AN UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 35 U.S.C. § 120 FOR THE BENEFIT OF A PRIOR-FILED APPLICATION, filed October 19, 2011, to accept an unintentionally delayed claim to prior-filed application No. 11/325,751.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i), of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii), and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application 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. In addition, the petition includes payment of the surcharge and the required statement of unintentional delay.

On petition, the reference to prior-filed application No. 11/325,751 has been included in an amendment.

However, the petition is not grantable as the amendment is not proper as it includes an improper incorporation by reference statement. Specifically, line 0002 of the specification as filed incorporates by reference the "above stated applications." The amendment submitted on petition adds prior-filed application No. 11/325,751 to the above stated applications. No incorporation by reference of application No. 11/325,751 was present in the application on filing. At the same time, the amendment does not amend line 0002 to delete the incorporation by reference statement with respect to "above stated" application No. 11/325,751. 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)). Accordingly, 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 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, unless an incorporation by reference statement of the prior application was presented upon filing of the application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

In view thereof, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Feldman Gale, P.A.
1700 Market Street
Suite 3130
Philadelphia, PA 19103

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Edward C. Gerhardt, et. al.	:	
Application No. 11/687,120	:	DECISION ON PETITION
Filed: March 16, 2007	:	TO WITHDRAW FROM
Attorney Docket No. 1264.ADAP0003CIP1	:	RECORD

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed March 24, 2010.

The request is **APPROVED**.

A review of the file record indicates that Michael Cesarano and the attorneys/agents associated with Customer Number 44338: (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. Michael Cesarano and the attorneys/agents associated with Customer Number 44338 may not prepare or submit papers, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b)[1].

Applicant is reminded that there are no attorneys/agents of record at this time.

The request to change the correspondence address cannot be accepted since it is not of the first named signing inventor or the intervening assignee that complied with the requirements of 37 CFR 3.73(b)[2]. A courtesy copy is being mailed to the address listed in the present request; thereafter, all future communications from the Office will continue to be directed to the above listed address until otherwise properly notified by the applicant.

[1] The power of attorney filed on April 29, 2009 was improperly accepted by the Office. While the assignee attempted to intervene in the above application, the Statement under 37 CFR 3.73(b) named an assignee that is not of record and failed to fully set forth the chain of title from the original owners to the current assignee. Thus, a proper Statement under 37 CFR 3.73(b) must be submitted.

[2] In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed February 12, 2010 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: Adapt4, LLC
1050 West Nasa Boulevard, Suite 134
Melbourne, FL 32901

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FELDMAN GALE, P.A.
1700 Market Street
Suite 3130
Philadelphia PA 19103

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SEP 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Edward C. Gerhardt, et al.	:	
Application No. 11/687,120	:	DECISION ON PETITION
Filed: March 16, 2007	:	
Attorney Docket No. 1264.ADAP0003CIP1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 12, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 13, 2010. The Notice of Abandonment was mailed August 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment, (2) the petition fee of $1620; 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 Technology Center AU 2611 for appropriate action on the amendment received.

/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
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

In re Patent No. 7,829,282	:
Rieder et al.	: DECISION ON REQUEST FOR
Issue Date: November 9, 2010	: RECONSIDERATION OF
Application No. 11/687,123	: PATENT TERM ADJUSTMENT
Filed: March 16, 2007	: AND NOTICE OF INTENT
Attorney Docket No. 34186/1083	: TO ISSUE CERTIFICATE OF
(7063P.1USDIV1	: CORRECTION
Title: METHODS AND COMPOSITIONS	:
FOR PREDICTING DRUG RESPONSES	:

This is a decision on the petition filed on December 29, 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 eight hundred twenty-six (826) days.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred three **(703)** days is **GRANTED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 598 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 238 days.

Patentees dispute the 55 day reduction for the submission of the amendment after the Notice of Allowance on September 16, 2010. Patentees state that the mailing of the Response to Rule 312 Communication on September 24, 2010 results in applicant delay of 9 days, not 55 days pursuant to 37 CFR 1.704(c)(10).

Patentees' argument has been considered and determined to be persuasive. 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (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;

A review of the record shows the submission of the amendment after the mailing of the Notice of Allowance warrants a reduction of nine (9) days. The 9 day period is calculated beginning on September 16, 2010 and ending on September 24, 2010 the date a response to the amendment was mailed. As such the 55 day reduction will be removed and a 9 day reduction entered.

Further review of the record shows that patentees should have been assessed a delay of one hundred twenty three (123) days for the submission of a reply to the Notice To Comply With Requirements of Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures on April 12, 2007. 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of

> time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 123 days for the submission of reply on November 12, 2007 is warranted. The patent term should have been assessed a reduction of 123 days, the number of days in excess of three months that was taken to reply to the April 12, 2007 the Notice of Missing Parts.

Thus the total reduction for patentees' delay totals 133 (1 + 123 + 9) 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 application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred three (703)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,829,282 B2

DATED : November 9, 2010 **DRAFT**

INVENTOR(S) : Rieder 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 780 days

Delete the phrase "by 780 days" and insert – by 703 days--

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OFFICE OF PETITIONS

NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

In re Patent No. 7,829,282	:
Rieder et al.	: DECISION ON REQUEST FOR
Issue Date: November 9, 2010	: RECONSIDERATION OF
Application No. 11/687,123	: PATENT TERM ADJUSTMENT
Filed: March 16, 2007	: AND NOTICE OF INTENT
Attorney Docket No. 34186/1083	: TO ISSUE CERTIFICATE OF
(7063P.1USDIV1	: CORRECTION
Title: METHODS AND COMPOSITIONS	:
FOR PREDICTING DRUG RESPONSES	:

This is a decision on the petition filed on December 29, 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 eight hundred twenty-six (826) days.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred three **(703)** days is **GRANTED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 598 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 238 days.

Patentees dispute the 55 day reduction for the submission of the amendment after the Notice of Allowance on September 16, 2010. Patentees state that the mailing of the Response to Rule 312 Communication on September 24, 2010 results in applicant delay of 9 days, not 55 days pursuant to 37 CFR 1.704(c)(10).

Patentees' argument has been considered and determined to be persuasive. 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (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;

A review of the record shows the submission of the amendment after the mailing of the Notice of Allowance warrants a reduction of nine (9) days. The 9 day period is calculated beginning on September 16, 2010 and ending on September 24, 2010 the date a response to the amendment was mailed. As such the 55 day reduction will be removed and a 9 day reduction entered.

Further review of the record shows that patentees should have been assessed a delay of one hundred twenty three (123) days for the submission of a reply to the Notice To Comply With Requirements of Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures on April 12, 2007. 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of

> time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 123 days for the submission of reply on November 12, 2007 is warranted. The patent term should have been assessed a reduction of 123 days, the number of days in excess of three months that was taken to reply to the April 12, 2007 the Notice of Missing Parts.

Thus the total reduction for patentees' delay totals 133 (1 + 123 + 9) 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 application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred three (703)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,829,282 B2

DATED : November 9, 2010 **DRAFT**

INVENTOR(S) : Rieder 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 780 days

Delete the phrase "by 780 days" and insert – by 703 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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FELDMAN GALE, P.A.
1700 Market Street
Suite 3130
Philadelphia PA 19103

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Edward C. Gerhardt et al.	:	
Application No. 11/687,130	:	DECISION ON PETITION
Filed: July 14, 2009	:	TO WITHDRAW
Attorney Docket No. P08274	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 1, 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 Michael C. Cesarano on behalf of all attorneys/agents associated with customer 44338. All attorneys/agents associated with customer number 44338 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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: Edward C. Gerhardt
765 Hall Road
Malabar, FL 32950

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/687,130	03/16/2007	Edward C. Gerhardt	1264.ADAP0003CIP4

CONFIRMATION NO. 7627

POWER OF ATTORNEY NOTICE

44338
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OC000000043916946

Date Mailed: 10/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2010.

- 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