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ITALIA IP
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SUITE 300
BURBANK CA 91505

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of :
Lombard et al. :
Application No. 11/687177 : ON PETITION
Filing or 371(c) Date: 03/16/2007 :
Attorney Docket Number: LOM-002 :

This is a decision on the "Petition for the Suspension of Rules," filed December 2, 2010, to waive the requirement of 37 CFR 1.48(a)(2), that requires, inter alia, a statement from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his part, and supplemented December 16, 2010, noting receipt of a statement from the deleted inventor that the error in inventorship occurred without deceptive intention on his part. The petition is properly treated under 37 CFR 1.183.

Petitioner also avers, in the supplement to the petition, that receipt of the statement from the deleted inventor eliminates the need for a request to correct inventorship, and because the petition for suspension of the rules had not been decided, Petitioner also requests a full refund of the $530.00.

In view of the receipt of a statement from the deleted inventor, further consideration under 37 CFR 1.183 is not necessary and **the Petition is considered to be moot**.

A review of Office records reveals that the Office refunded the fee for the petition under 37 CFR 1.183, $400.00, on March 2, 2011.

Regarding the request to correct inventorship and the request for a refund of the additional $130.00, this application is being referred to Technology Center Art Unit 2885 for consideration of the request to correct inventorship, and for consideration of the request for a refund of the additional $130.00.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 032211

DATE : December 18, 2010

TO SPE OF : ART UNIT 2885
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/687177 Patent No.: 7845816

CofC mailroom date: 12-9-10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

JONG-SUK (JAMES) LEE
SUPERVISORY PATENT EXAMINER

2885

SPE **Art Unit**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/687,177	03/16/2007	Vernon Lomdard	LOM-002	7708

7590 03/24/2011

Vernon Lombard
P.O. Box 71302
Los Angeles, CA 90071

EXAMINER	
WARD, JOHN A	
ART UNIT	PAPER NUMBER
2885	
MAIL DATE	DELIVERY MODE
03/24/2011	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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Mr. Vernon Lombard
P.O. Box 71302
Los Angeles, CA 90071

In re Patent No. 7,845,816 of: LOMBARD et al.
Issue Date: December 7, 2010
Application Serial No.: 11/687,177
Filed: March 16, 2007
For: Helmet Lighting System

DECISION ON PETITION TO CORRECT INVENTORSHIP
37 CFR § 1.324

This is a decision on the petition filed December 2, 2010 under 37 C.F.R. § 1.48 (now treated under 37 C.F.R. § 1.324 after the patent was issued) to correct Inventorship in the above-identified Patent.

The patent was issued December 7, 2010 listing Vernon Lombard and Lonnie Goodman as the only inventors. The petition requests that the above-identified patent amend the inventorship to delete the following inventor who is no longer being claimed in the instant patent.

Lonnie Goodman

Accordingly, the petition is **GRANTED.**

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Jong-Suk (James) Lee
Supervisory Patent Examiner
Art Unit 2885
Technology Center 2800

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P.O. Box 1450
Alexandria, VA 22313-1450
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MANFRED CLYNES
19181 MESQUITE COURT
SONOMA CA 95476

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Manfred Clynes	:	
Application No. 11/687,211	:	DECISION ON PETITION
Filed: March 16, 2007	:	
Attorney Docket No. 14825-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 1, 2011 revive the above-identified application.

The petition is **DISMISSED**.

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

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

With respect to item (1) petitioner has previously submitted $750.00 towards the required issue fee of $755.00 thus creating a $5.00 shortage. Further, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee.

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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ECKERT SEAMANS CHERIN & MELLOTT, LLC.
600 GRANT STREET, 44TH FLOOR
PITTSBURGH PA 15219

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of :
Aissaoui, et al. :
Application No. 11/687,214 : ON PETITION
Filed: March 16, 2007 :
Attorney Docket No. 195006-01014 :

This is a decision on the petition filed February 9, 2011 under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration under 37 CFR 1.131.

The petition is granted to the extent infra.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only four of the five joint inventors has agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to March 10, 2010.

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

This application is being referred to Technology Center AU 2477 for further examination on the merits.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

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FISH & RICHARDSON P.C. (DC)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
NOV 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Sang Kim	:	DECISION ON APPLICATION
Application No. 11/687,221	:	FOR
Filed: March 16, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 19817-020001 / PA/VND/060	:	

This is a decision on the petition filed on November 4, 2011, which is being treated as a petition under 37 CFR 1.705(b) requesting that the patent term adjustment at the time of the mailing of the notice of allowance be increased from four hundred forty-one (441) days to four hundred forty-four (444) days.

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

On September 16, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 441 days. On November 4, 2011, applicant timely submitted the instant application for patent term adjustment[1]. Applicant disputes the delay, pursuant to 37 CFR 1.704(b), of 31 days for a late response filed February 1, 2010. Applicant contends that as intended by 35 U.S.C. § 154(b)(2)(C)(ii), the three-month date should be calculated from January 4, 2010, instead of January 1, 2010, as January 1, 2010, falls on a federal holiday. Moreover, given this applicant

[1] PALM records indicate that the Issue Payment has not been filed. The issue fee is due December 16, 2011.

maintains that the filing of their response on February 1, 2010, should be based on the January 4, 2010 date and should be calculated as 28 days, not 31 days.

RELEVANT STATUTE AND REGULATIONS

With respect to applicant delay, 35 U.S.C. § 154(b)(2)(C)(ii) provides that:

> 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.

37 CFR 1.704(b) provides in pertinent part that:

> … , 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.

35 U.S.C. 21(b) provides that:

> 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.

OPINION

Applicant's arguments have been considered, but not found persuasive. Applicant is incorrect that the period of reduction, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b), is incorrectly calculated as 31 days. The weekend/holiday exception does not apply to the period of applicant delay at issue. The Office action was mailed on October 1, 2009, with a shortened statutory period for reply of three (3) months, with extensions of time obtainable under §1.136(a). It is recognized that the three-month deadline, January 1, 2010, ended on a federal holiday. However, in this instance, applicant did not exercise the §21(b) weekend/holiday exception to file a timely response under §133 on the following business day. Applicant timely filed a reply on February 1, 2010. In other words, the reply filed February 1, 2010 was not timely filed pursuant to 35 U.S.C. §21(b). Thus, the period of reduction was properly calculated as 31 days counting the number of days beginning on the day after the date that is three months after the date of mailing of the Office action, October 1, 2009 and ending on the date the reply was filed, February 1, 2010. Accordingly, the period of reduction of 31 days will be retained.

CONCLUSION

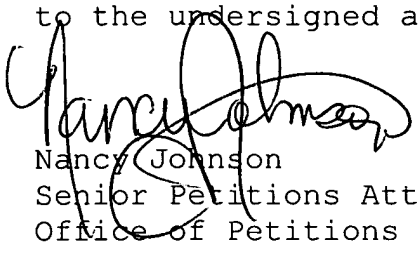
In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 441 days.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years

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) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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W2-55BB
LIBERTYVILLE IL 60048-5343

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OFFICE OF PETITIONS

In re Application of

Snow, et al.

Application No. 11/687,248

Filed: March 16, 2007

Attorney Docket No. **CE16407JLO**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2012, 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 June 7, 2011, which set a shortened statutory period for reply of three months from its mailing date. A proper response was not received within the allowed period. The application became abandoned on November 8, 2011. A Notice of Abandonment was mailed February 2, 2012.

The Request for Continued Examination filed March 21, 2012, is noted.

The application file is being forwarded to Technology Center GAU 3686 for further processing.

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

/Kenya A. McLauglin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Decision Date : February 2, 2012

In re Application of :

Eitan Sharon

Application No : 11687261

Filed : 16-Mar-2007

Attorney Docket No : 643702000300

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 2, 2012

The request is **APPROVED.**

The request was signed by Jonathan Bockman (registration no. 45640) on behalf of all attorneys/agents associated with Customer Number 25227 . All attorneys/agents associated with Cusotmer Number 25227 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	VIDEOSURF, INC
Name2	
Address 1	400 South El Camino Real, Suite 500
Address 2	
City	San Mateo
State	CA
Postal Code	94402
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	11687261
Filing Date	16-Mar-2007
First Named Inventor	Eitan Sharon
Art Unit	2624
Examiner Name	THOMAS CONWAY
Attorney Docket Number	643702000300
Title	Method of Performing Motion-Based Object Extraction and Tracking in Video

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 25227

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	VIDEOSURF, INC
Address	400 South El Camino Real, Suite 500
City	San Mateo
State	CA
Postal Code	94402
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Jonathan Bockman/
Name	Jonathan Bockman
Registration Number	45640

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JAN 12 2011

PCT LEGAL ADMINISTRATION

BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO IL 60604-3787

In re Application of :
HUMAR et al. : DECISION ON PETITION
Application No.: 11/687,269 : UNDER 37 CFR 1.78(a)(3)
Filed: March 16, 2007 :
Attorney Docket No.: 0331-0001 :
Title: SOLUTION FOR WOOD :
PRESERVATION :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 18, 2010, to accept an unintentionally delayed claim for the benefit of the prior-filed international application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

Applicant requests that priority information be added under 37 CFR 1.78(a)(3). Specifically, the priority information requested to be added is that this application is the National Stage application under 35 U.S.C. 371 of International Application PCT/SI2005/000028 filed September 16, 2005, which claims priority to Slovenian application SI P-200400260 filed September 17, 2004. (Page 3 of Supplemental Application Data Sheet (ADS) filed March 24, 2010.)

This priority information is improper for two reasons. *First*, the instant application is not the national stage of international application PCT/SI2005/000028. "Applicant's initially deposited application must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. See 37 CFR 1.495(g). Otherwise, . . ., the application will be treated as an application filed under 35 U.S.C. 111(a). See 37 CFR 1.417." MPEP § 1893.01(a) (first paragraph). Here, none of the documents filed March 16, 2007 identified the filing as a submission to enter the national stage under 35 U.S.C. 371. Further, when filing the application electronically, applicant selected in the Graphical User Interface the radio button "Utility (Utility under 35 USC 111(a))" rather than the radio button "U.S. National Stage under 35 USC 371". (See Electronic Acknowledgement Receipt for the instant application dated March 16, 2007.) Accordingly, the submission filed March 16, 2007 was properly treated as a submission under 35 U.S.C. 111(a). *Second*, even if the instant application had been filed as a national stage application under 35 U.S.C. 371, 37 CFR 1.78(a)(3) refers to benefit claims under 35 U.S.C. 120, 121, or 365(c). As noted in MPEP 1893.03(c),

Note: 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 date of filing of that international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage. For a comparison with 35 U.S.C. 120 benefit claims in a national application filed under 35 U.S.C. 111(a), see MPEP § 1895.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 11/687,269) and the international application (PCT/SI2005/000028) designating the United States were copending. However, applicant must file a renewed petition to accept an unintentionally delayed claim under 37 CFR 1.78(a)(3) for the benefit of the international application along with a proper amendment.

Applicant is also reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

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

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

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

Any questions concerning this matter may be directed to Daniel Stemmer at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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PCT LEGAL ADMINISTRATION

BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO IL 60604-3787

In re Application of	:	
HUMAR et al.	:	DECISION ON PETITION
Application No.: 11/687,269	:	UNDER 37 CFR 1.78(a)(3)
Filed: March 16, 2007	:	
Attorney Docket No.: 0331-0001	:	
Title: SOLUTION FOR WOOD PRESERVATION	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 31, 2011, to accept an unintentionally delayed claim for the benefit of the prior-filed international application set forth in the concurrently filed amendment.

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

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) was submitted on May 18, 2010

(the second surcharge fee paid on January 31, 2011 is not necessary and has been credited to Deposit Account 502195); and (3) the required statement has been provided. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Daniel Stemmer at 571-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 1731 for appropriate action on the amendment filed January 31, 2011, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/SI2005/000028, filed September 16, 2005.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P. O. Box 1450
Alexandria, VA 22313-1450

January 12, 2011

Patent No.: 7,691,515 B2
Applicaton No.: 11/687,298
Applicant : Wen Li, et al.
Issued : April 6, 2010
For : **PROTON EXCHANGE MEMBRANES USING CYCLOADDITION REACTION BETWEEN AZIDE AND ALKYNE CONTAINING COMPONENTS**

Re: Request for Certificate of Correction filed December 21, 2010

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

Respecting the alleged error in the certificate of correction filed by applicant. The correction labeled to be at "Column 5, line 35, replace "tie" with --the-- to be changed to be labeled "Column 5, line 34, replace "tie" with --the--" is incorrect. The correction is displayed correctly in the Certificate of Correction issued December 14, 2010 to the corresponding location in the printed patent --Column 5, line 35-- not "Column 5, line 34". The certificate of correction issued December 14, 2010 was issued displaying all of the corrections correctly. No further action will be taken on this matter at this time.

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

Antonio Johnson
Decisions & Certificates
of Correction Branch
(571)272-0483

GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY MI 48007-7021

AJ

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED
APR 18 2012
OFFICE OF PETITIONS

In re Application of William P. Alberth Jr. :
Application No. 11/687,314 : Decision on Petition
Filing Date: March 16, 2007 :
Attorney Docket No. CS32445MORPH :

This is a decision on the petition under 37 CFR 1.137(b) filed February 22, 2012, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the final Office action issued August 10, 2011, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 11, 2012.

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 a request for continued examination, the required petition fee of $1,860, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2629 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

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	11687341
Filing Date	16-Mar-2007
First Named Inventor	Eitan Sharon
Art Unit	2624
Examiner Name	THOMAS CONWAY
Attorney Docket Number	643702000330
Title	Computer Program and Apparatus for Motion-Based Object Extraction and Tracking in Video

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 25227

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	VIDEOSURF, INC
Address	400 South El Camino Real, Suite 500
City	San Mateo
State	CA
Postal Code	94402
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Jonathan Bockman/
Name	Jonathan Bockman
Registration Number	45640

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : February 2, 2012

In re Application of :

Eitan Sharon

Application No : 11687341

Filed : 16-Mar-2007

Attorney Docket No : 643702000330

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 2, 2012

The request is **APPROVED.**

The request was signed by Jonathan Bockman (registration no. 45640) on behalf of all attorneys/agents associated with Customer Number 25227 . All attorneys/agents associated with Cusotmer Number 25227 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	VIDEOSURF, INC
Name2	
Address 1	400 South El Camino Real, Suite 500
Address 2	
City	San Mateo
State	CA
Postal Code	94402
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 : 10/31/11

TO SPE OF : ART UNIT: **3718 Attn: VO PETER DUNG (PETER) B (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/687359** Patent No.: **7905772**

CofC mailroom date: 05/13/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Please check Claims 1, 2, 7, 14 & 16 Should these amended claims be amended again or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

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

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

Comments: _____

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3718
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Christian Pacha, et al.	:	
Application No. 11/687,365	:	DECISION ON PETITION
Filed: March 16, 2007	:	TO WITHDRAW
Attorney Docket No. 2337.062US1	:	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, P.A. has been revoked by the assignee of the patent application on February 24, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ESCHWEILER & ASSOCIATES LLC**
629 Euclid Avenue, Suite 1000
National City Building
Cleveland, OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DICKINSON WRIGHT PLLC
1875 Eye Street, NW
Suite 1200
WASHINGTON DC 20006

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Lawrence R. Duthler et al.	:	
Application No. 11/687,464	:	DECISION ON PETITION
Filed: March 16, 2007	:	
Attorney Docket No. 35286-00004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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, March 30, 2011, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 1, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $465, (2) the petition fee of $930, and (3) a proper statement of unintentional delay. Accordingly, the RCE 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 3688 for appropriate action by the Examiner in the normal course of business on the reply received October 14, 2011.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Craig A. Phillips
2600 West Big Beaver Road
Suite 300
Troy, MI 48084

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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE., N.W.
WASHINGTON, DC 20036-5304

MAILED

OCT 07 2011

OFFICE OF PETITIONS

In re Application of :
DARLENA GOETZ :
Application No. 11/687,468 : DECISION ON PETITION
Filed: March 16, 2007 :
Attorney Docket No. 044090.01002 :

This is a decision on the petition under 37 CFR 1.59(b), filed October 6, 2011, to expunge information from the above identified application. The petition here will be considered under 37 CFR 1.181 as a petition for review.

The petition is **GRANTED**.

Petitioner requests that a document filed September 23, 2011, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

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

In a paper file, exhibits could, but not necessarily would, have been physically removed from the file wrapper. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Publicly available Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 11/687,468, filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW). Petitioner understands that upon granting the petition, the image of the inadvertently recorded document would remain in the records of the Assignment Services Division at the same reel and frame number, but that the link to said

information in the patent would be deleted, so that no information about the inadvertently recorded document would appear when searching for the patent numbers in the Assignment Historical Database.

The petition fee of $200.00 has been refunded to petitioner's Deposit Account 50-2036.

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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KRIEGER INTELLECTUAL PROPERTY, INC.
P.O. BOX 872438
VANCOUVER, WA 98687-2438

MAILED
DEC 21 2010
OFFICE OF PETITIONS

In re Application of :
Andrew Rodney Ferlitsch :
Application No. 11/687,516 : ON PETITION
Filed: March 16, 2007 :
Attorney Docket No. SLA2091 :

This is a decision on the petition filed November 24, 2010 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed July 23, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 24, 2010.

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

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Karen S.Z. Haas
1855 N. Camino De Oeste
Tucson AZ 85745

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
Betty Jean Arond, et al. :
Application No. 11/687,559 : DECISION ON PETITION
Filed: March 16, 2007 :
Attorney Docket No. 44095.21U2 :

This is a decision on the petition filed March 21, 2011 to revive the above identified application.

The petition is **dismissed.**

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by the appropriate payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received. An amount $110 is still due to complete the payment of the petition fee.

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) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SINORICA, LLC
2275 RESEARCH BLVD.
SUITE 500
ROCKVILLE, MD 20850

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of :
John Balzowski :
Application No. 11/687,563 : ON PETITION
Filed: March 16, 2007 :
Attorney Docket No. TP-BALJ-TTA2 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 non-final Office action mailed July 16, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 17, 2009.

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

This matter is being referred to Technology Center AU 1791 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CONFIRMATION NO. 8779

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/687,739	03/19/2007	701	3661	67008-172PUS1;3888

APPLICANTS

Igor Cherepinsky, Sandy Hook, CT;
Michael R. Skaggs, Southbury, CT;

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

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

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****

04/03/2007

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /CUONG H NGUYEN/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		CT	5	21	3

ADDRESS

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009
UNITED STATES

TITLE

VERTICAL SPEED AND FLIGHT PATH COMMAND ALGORITHM FOR DISPLACEMENT COLLECTIVE UTILIZING TACTILE CUEING AND TACTILE FEEDBACK

FILING FEE RECEIVED		
1050	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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JUN 28 2011
OFFICE OF PETITIONS

SABIC - LNP-CE 08CE
SABIC Innovative Plastics - IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

In re Application of :
Ashish ANEJA et al. : ON PETITION
Application No. 11/687,749 :
Filed: March 19, 2007 :
Atty. Docket No.: 137181-5 (P070235USP2)

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

The petition is **GRANTED**.

The application was held abandoned for failure to respond in a timely manner to the final Office action mailed October 28, 2010, which set a period for reply of three (3) months. No reply was received, and a three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application went abandoned on April 29, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE Fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the final Office action mailed October 28, 2010 is accepted as being unintentionally delayed.

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

Telephone 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 1765 for further action on the filed Response

David Bucci
Petitions Examiner
Office of Petitions

cc: Leah M. Reimer, Ph.D.
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103

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

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Masayuki Ichige, et al. :
Application No.: 11/687,758 : ON PETITION
Filed: March 19, 2007 :
Attorney Docket No.: 305437US2S :

This is a decision on the petition, filed February 14, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 7, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2891 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/11

TO SPE OF : ART UNIT 2431

SUBJECT : Request for Certificate of Correction for Appl. No.: 11687773 Patent No.: 7412062

CofC mailroom date: 05/13/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Comments: ok

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/AS/ 2476

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :
Tognetti et al. :
Application No. 11/687,858 : DECISION ON PETITION
Filed: March 19, 2007 :
Attorney Docket No. BGR-173-A :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on February 8, 2011.

The petition is **DISMISSED.**

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

This above-identified application became abandoned for failure to timely file a proper to the Notice of Non-Complaint Amendment. A Notice of Abandonment was mailed on January 20, 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), a review of the response titled "Statement Establishing Unintentional Delay" filed February 8, 2011 shows that the response is not an amendment or reply. In order to have the petition to revive granted, petitioner must submit an amendment or reply. It is suggested that if applicant disagrees with the examiner's opinion as set forth in the Notice, than a petition under 37 CFR 1.181 would be in order. However, consideration of the petition under 37 CFR 1.181 will not be made until after the revival of the application.

It is further noted that the terminal disclaimer presented on February 8, 2011was disapproved. Any terminal disclaimer presented will be reviewed by the technology center and questions regarding a terminal disclaimer to obviate a double patenting rejection should be directed to the technology center.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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JUL 29 2011

OFFICE OF PETITIONS

YOUNG BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

In re Application of :
Tognetti et al. :
Application No. 11/687,858 : DECISION ON PETITION
Filed: March 19, 2007 :
Attorney Docket No. BGR-173-A :

This is a decision on the renewed petition filed under 37 CFR 1.137(b) in the above-identified application filed on June 27, 2011.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a proper to the Notice of Non-Complaint Amendment. A Notice of Abandonment was mailed on January 20, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

It is noted that on renewed petition a terminal disclaimer to accompany petition was filed. Since this application was filed after June 8, 1995 and is not a design application a terminal disclaimer to accompany the petition is not required.

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received

Any questions concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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SEP 01 2010

OFFICE OF PETITIONS

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

In re Application of :
Brian Thornes :
Application No. 11/687,882 : DECISION ON PETITION
Filed: March 19, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A8130.0494/P494 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 22, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. 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 3773 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.

Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/687,882	03/19/2007	3773	2836	A8130.0494/P494	22	3

CONFIRMATION NO. 9036

CORRECTED FILING RECEIPT

24998
DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Date Mailed: 08/31/2010

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)

Brian Thornes, Dublin, IRELAND;

Power of Attorney: The patent practitioners associated with Customer Number 24998

Domestic Priority data as claimed by applicant

This application is a CIP of 11/482,038 07/07/2006
which claims benefit of 60/697,125 07/07/2005
This application 11/687,882
claims benefit of 60/783,869 03/21/2006
and is a CIP of 10/233,122 08/30/2002 PAT 7,235,091

Foreign Applications

IRELAND S2002/0504 06/20/2002

If Required, Foreign Filing License Granted: 04/10/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/687,882**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ACROMIOCLAVICULAR JOINT FIXATION TECHNIQUE

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS, OH 43215

MAILED

DEC 16 2010

OFFICE OF PETITIONS

In re Application of :
Kiyoshi Handa :
Application No. 11/687,905 : DECISION ON PETITION
Filed: March 19, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3994994-165082 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 1, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) 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 for priority herein is submitted after expiration of the period specified in 37 CFR § 1.78(a)(2)(ii).

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 applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the 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 filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center Art Unit 3771 for appropriate action on the amendment submitted November 1, 2010, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/687,905	03/19/2007	3771	2858	3994994-165082	17	4

CONFIRMATION NO. 9070

CORRECTED FILING RECEIPT

23570
PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS, OH 43215

Date Mailed: 12/15/2010

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

Applicant(s)

Kiyoshi Handa, Tochigi, JAPAN;

Power of Attorney:
Edwin Baranowski--27482
Melanie Martin-Jones--50321

Domestic Priority data as claimed by applicant

This application is a CIP of 11/682,574 03/06/2007 PAT 7,735,528
which is a CIP of 11/279,574 04/13/2006 PAT 7,377,294
and is a CIP of 11/380,429 04/27/2006 PAT 7,637,292
and is a CIP of 11/381,005 05/01/2006 PAT 7,681,604
and is a CIP of 11/380,996 05/01/2006 PAT 7,757,726

Foreign Applications

If Required, Foreign Filing License Granted: 04/02/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/687,905**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Thermal Management For High Pressure Storage Tanks

Preliminary Class

096

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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Paper No.

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

MAILED
DEC 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Meydani et al.	:	
Application No. 11/687,910	:	DECISION ON PETITION
Filed: March 19, 2007	:	PURSUANT TO
Attorney Docket No.: 108341-33	:	37 C.F.R. § 1.137(B)
Title: THERAPEUTIC AVENANTHRAMIDE COMPOUNDS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 15, 2011, to revive the above-identified application.

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

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed November 18, 2009, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 19, 2009. A notice of abandonment was mailed on October 5, 2010.

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

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

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

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

With this petition, Petitioner has submitted the petition fee, an election of species, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the election of species that was received on December 15, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

1 See Rule 1.137(d).

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

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DEPARTMENT OF
THE AIR FORCE
AFMC LO/JAZ
BLdg 11, Room D18
WRIGHT-PATTERSON AFB OH 45433-7109

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Evans, et al. :
Application No. 11/687,914 : DECISION
Filed/Deposited: 19 March, 2007 :
Attorney Docket No. AFD 839 :

This is a decision on the petition filed on 24 June,2010 to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 22 February, 2010, with reply due under a non-extendable deadline on or before (Monday) 24 May, 2010.

The application went abandoned by operation of law after midnight 24 May, 2010.

The Office mailed a Notice of Abandonment on 16 June, 2010.

On 24 June, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of fees due, and made the statement of unintentional delay.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

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

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.

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

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

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

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

[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

Date : March 24, 2011

Patent No. :7844220
Ser. No. :11687943
Inventor(s) : Zhongqi Xu, et. al
Issued :February 8, 2011
Title :PROCESS FOR PURIFYING PPPBP

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. Angela Green at (571) 272-9005.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-9005

Richard M. Klein
Fay Sharpe LLP
1228 Euclid Avenue, 5th Flr.
Cleveland, Ohio 44115-1843

/arg

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

APR 05 2011

OFFICE OF PETITIONS

SABIC – PCC & PLX
SABIC INNOVATIVE PLASTICS – IP LEGAL
ONE PLASTICS AVE.
PITTSFIELD, MA 01201-3697

In re Application of :
Zhongqi Xu et al :
Application No. 11/687,943 : DECISION DISMISSING PETITION
Filed: March 19, 2007 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 202126-1SABI 2 00009US01 :

This is a decision on the petition, filed March 2, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the assignee is SABIC Innovative Plastics IB P.V. and that SABIC Innovative Plastics IB P.V. was unintentionally not included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

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

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

The patent issued on February 8, 2011 with SABIC Innovative Plastics IP B.V. as the assignee. Therefore, this petition is hereby dismissed.

[1] See Official Gazette of June 22, 2004

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

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

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

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

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

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Richard M. Klein
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, OH 44115-1843

UNITED STATES PATENT AND TRADEMARK OFFICE

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SABIC – PCC & PLX
SABIC INNOVATIVE PLASTICS – IP LEGAL
ONE PLASTICS AVE.
PITTSFIELD, MA 01201-3697

MAILED

APR 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,884,220 :
Issue Date: February 8, 2011 :
Application No. 11/687,943 : ON PETITION
Filed: March 19, 2007 :
Attorney Docket No. 202126-1/SABI 2 00009US01 :

This is a decision on the renewed petition filed April 13, 2011, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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.
12/766,044	04/23/2010	William H. Eby	1421-425	1659

32905 7590 10/13/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
KUMAR, VINOD	

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
10/13/2011	ELECTRONIC

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

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

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

JondleOA@jondlelaw.com

Copied from 12766044 on 10/26/2011

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 13 2011

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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
Noritomi et al.
Serial No.: 12/766,044
Filed: March 19, 2007
Attorney Docket No.: **305576US3SRD**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed September 20, 2011, requesting that the several references be considered.

Specifically, "Applicants herein petition the Commissioner to invoke his supervisory authority to compel the Examiner to consider Document (AO) cited in the Information Disclosure Statement filed on March 19, 2007, and to consider Documents (AO)-(AR) cited in the Information Disclosure Statement filed on October 12, 2010. The above-referenced application has now been allowed."

Applicants' points are well taken and persuasive that the references should be considered.

Therefore, petitioner's petition is GRANTED.

This application will be forwarded to the examiner to take an action consistent with the decision herein, namely to consider the references set forth above.

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

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

Copied from 12766044 on 10/26/2011

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/687,995	03/19/2007	Yasuko Noritomi	305576US3SRD	9221

22850 7590 10/25/2011

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

EXAMINER	
WHEELER, THURMAN MICHAEL	
ART UNIT	**PAPER NUMBER**
1619	

NOTIFICATION DATE	DELIVERY MODE
10/25/2011	ELECTRONIC

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

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

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

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:
Noritomi et al.
Serial No.: 11/687,995
Filed: March 19, 2007
Attorney Docket No.: **305576US3SRD**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed September 20, 2011, requesting that the several references be considered.

Specifically, "Applicants herein petition the Commissioner to invoke his supervisory authority to compel the Examiner to consider Document (AO) cited in the Information Disclosure Statement filed on March 19, 2007, and to consider Documents (AO)-(AR) cited in the Information Disclosure Statement filed on October 12, 2010. The above-referenced application has now been allowed."

Applicants' points are well taken and persuasive that the references should be considered.

Therefore, petitioner's petition is GRANTED.

This application will be forwarded to the examiner to take an action consistent with the decision herein, namely to consider the references set forth above.

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

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

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KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Application of	:	
Hadzikadic	:	
Application No. 11/688053	:	ON APPLICATION FOR
Filing or 371(c) Date: 03/19/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
46872/342137	:	

This is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE," filed November 11, 2010. Applicant believe that the correct total Patent Term Adjustment is 607 days, not 253 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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

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

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

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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KILPATRICK TOWNSEND &
STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Hadzikadic et al.	:	
Patent Number: 7,873,643	:	DECISION ON
Issue Date: 01/18/2011	:	PETITION REGARDING
Application No. 11/688053	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/19/2007	:	
Attorney Docket Number: 46872/342137	:	

This is a decision on the petition filed on March 16, 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 five hundred fifty (550) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty (550) days is **DISMISSED**.

Initially it is noted that the period of B-delay is 305 days, beginning on March 20, 2010, and ending on January 18, 2011. As to the period of time excluded from B delay for appellate review, Patentee's argument has also been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 161 days, beginning on March 4, 2010, the date of filing of the notice of appeal, and ending on August 11, 2011, the date of mailing of the Notice of Allowance.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the

interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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DEC 20 2011

OFFICE OF PETITIONS

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

In re Patent No. 8,035,643
Pighin et al.
Issue Date: October 11, 2011
Application No. 11/688,066
Filed: March 19, 2007
Attorney Docket No. 20567-008001
Title: ANIMATION RETARGETING

: DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed on December 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 nine hundred fifty-three (953) days.

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

The above-identified application matured into U.S. Pat. No. 8,035,643 on October 11, 2011. The patent issued with a patent term adjustment of 829 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees contest the period of adjustment of 248 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 372 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 248 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including – (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the

final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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, 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 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.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in

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

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

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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.

application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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 issuance 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

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

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

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

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

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/688,132	03/19/2007	Stephen G. Eick	EICKSTE-8	9456

20455 7590 09/23/2010

LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON, WI 537011507

EXAMINER	
BEHARRY, NOEL R	

ART UNIT	PAPER NUMBER
2446	

MAIL DATE	DELIVERY MODE
09/23/2010	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
WASHINGTON, D.C. 20231
www.uspto.gov

LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON WI 53701-1507

In re Application of: Spephen G. EICK, et al.)
Application No.: 11/688,132)
Filed: Mar 19, 2007)
For: SERVER-BASED SYSTEMS AND METHODS FOR ENABLING INTERACTIVE, COLLABORTIVE THIN- AND NO-CLIENT IMAGE-BASED APPLICATIONS)

DECISION ON PETITION UNDER 37 C.F.R. ∋ 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the renewed petition under 37 C.F.R. 1.84(a)(2), filed August 11, 2010, requesting acceptance of color drawings

The petition is **GRANTED**.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.84(a)(2) states:

(2) *Color.* On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

(i) The fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings;

(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

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

OG Notice 1348 OG 389 (Nov 24, 2009) - Legal Framework for Electronic Filing System - Web (EFS-Web) (21Oct2009) states:

> ...The requirement for three (3) sets of color drawings under 37 CFR 1.84(a)(2)(ii) is not applicable to color drawings submitted via EFS-Web. Therefore, only one set of such color drawings is necessary when filing via EFS-Web.

DECISION

The petition, filed August 11, 2010 satisfies conditions (i)-(iii); condition (ii) is satisfied per OG Notice 1348 OG 389). Thus, the petition is **GRANTED**.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

/Kim Huynh/

Kim Huynh, WQAS
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAN 04 2011

OFFICE OF PETITIONS

ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612-1599

In re Application of
Wha-Bin Im et al
Application No. 11/688,147
Filed: March 19, 2007
Attorney Docket No. 17908 (AP)

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed January 12, 2010. A Notice of Abandonment was mailed on July 30, 2010.

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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

The statement in the petition that "Applicants inadvertently failed to file a three-month extension of time with the continuation application that was filed July 12,2010," is being construed that the filing of the continuation application on July 12, 2010, was filed as the response to the final Office action mailed January 12, 2010. If the above is an incorrect interpretation, applicant should notify the Office in writing indicating such.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on September 1, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/834,174, filed July 12, 2010.

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

/KOC/
Karen Creasy
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	11688160
Filing Date	19-Mar-2007
First Named Inventor	Richard Gray
Art Unit	3688
Examiner Name	DARNELL POUNCIL
Attorney Docket Number	4001-0011
Title	Method for Detecting and Preventing Fraudulent Internet Advertising Activity

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 91944

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: 86636

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Brian Siritzky/
Name	Brian Siritzky
Registration Number	37497

UNITED STATES 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 1, 2011

In re Application of :

Richard Gray

Application No : 11688160

Filed : 19-Mar-2007

Attorney Docket No : 4001-0011

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 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 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 86636 .

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

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

Office of Petitions

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OCT 12 2010

OFFICE OF PETITIONS

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

In re Application of :
Jocelyn Aulin :
Application No. 11/688,169 : DECISION ON PETITION
Filed: March 19, 2007 : TO WITHDRAW
Attorney Docket No. 22419-002001 : 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 20, 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 Kirk A. Gottlieb on behalf of all attorneys/agents associated with customer 26181. All attorneys/agents associated with customer number 26181 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: Jocelyn Aulin
Södra Fiskebäcksvägen 222
SE-426 58 Vastra Frölunda
SWEDEN

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
11/688,169	03/19/2007	Jocelyn Aulin	22419-002001

CONFIRMATION NO. 9531

26181
FISH & RICHARDSON P.C. (SV)
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

POWER OF ATTORNEY NOTICE

OC000000043938254

Date Mailed: 10/12/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/20/2010.

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

/kainabinet/

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

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

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APR 05 2011

OFFICE OF PETITIONS

In re Application	:	
Aravind Dharmastala	:	DECISION ON PETITION
Application No. 11/688,186	:	TO WITHDRAW
Filed: March 19, 2007	:	FROM RECORD
Attorney Docket No. NAI1P570/06.112.01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2011.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Zilka-Kotab, P.C., was revoked as attorney of record by the applicant on March 7, 2011, by the assignee of record. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: PATENT CAPITAL GROUP
6119 MCCOMMAS BLVD
DALLAS TX 75214

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Roy et al.	:	
Patent Number: 8,015,487	:	DECISION ON
Issue Date: 09/06/2011	:	APPLICATION FOR
Application No. 11/688210	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/19/2007	:	
Attorney Docket Number:	:	
07844-379002/P355 C1	:	

This is a decision on the petition filed on November 7, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty-one (751) days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

On September 6, 2011, the above-identified application matured into U.S. Patent No. 8,015,487. The patent issued with a PTA of 588 days. The present request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent[1].

Patentees contest the reduction of 37 days in connection with the filing of a Response to Notice of Allowance, filed August 1, 2011. Patentee argues that the response is not a failure to engage in reasonable efforts to conclude prosecution of the application as intended in 37 CFR 1.704(c)(10).

Patentees also request an additional one hundred twenty-six (126) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, May 4, 2011, and ending on the date the patent issued, September 6, 2011. Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on July 15, 2010. Patentees aver that with the mailing of the Notice of Allowance and Issue Fee Due, the Office closed examination on the present application on that date, and no continued examination took place in the 126-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 126 days of B Delay should have been included in the period of delay accorded by the Director, and that the Patent Term Adjustment should be calculated as 751 days, instead of 588 days.

[1] Accord, 37 CFR 1.7.

Patentees' arguments have been carefully considered. A review of the record reveals that a Response to Notice of Allowance was filed August 1, 2011. Thereafter, the patent issued on September 6, 2011.

The MPEP 2737, Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, (1247 Off. Gaz. Pat. Office 111 (June 26, 2001)), provides that the submission of a response to the examiner's reasons for allowance after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application.

Accordingly, the reduction of 37 days in connection with the filing of the Response to Notice of Allowance, filed August 1, 2011, is improper and has been removed.

Regarding Patentees request for an additional one hundred twenty-six (126) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, May 4, 2011, and ending on the date the patent issued, September 6, 2011, Office records confirm that Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on July 15, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on May 4, 2011. Patentees request an additional one hundred twenty-six (126) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, September 6, 2011. Patentees aver that with the mailing of the Notice of Allowance and Issue Fee Due on May 4, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 126-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 126 days of B Delay should have been included in the period of delay accorded by the Director, and that the Patent Term Adjustment should be calculated as 751 days, instead of 588 days.

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

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

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent

term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR

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

1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

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

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

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

amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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

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

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 March 20, 2010, and ends on July 14, 2010, the day before the RCE, filed July 15, 2010, was filed, and is 117 days. See, 35 U.S.C. 154(b)(1)(B)(i).

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of six hundred twenty-five (625) days (698 days of Office delay reduced by 73 days of applicant delay).

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

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of

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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.

correction indicating that the term of the above-identified patent is extended or adjusted by six hundred twenty-five (625) days.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,015,487 B2

DATED : September 6, 2011

INVENTOR(S) : Roy 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 588 days.

Delete the phrase "by 588 days" and insert – by 625 days--

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JUN 24 2011
OFFICE OF PETITIONS

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

In re Application of	:	
KAUFMAN	:	
Application No. 11/688,211	:	ON PETITION
Filed: March 19, 2007	:	
Attorney Docket No. KAUF.001A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 2, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 3, 2010. A Notice of Abandonment was mailed October 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitions have 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 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 3637 for processing by the Examiner in the normal course of business.

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

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ARRIS INTERNATIONAL, INC.
3871 LAKEFIELD DRIVE
SUWANEE GA 30024

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Allen WALSTON :
Application No. 11/688,227 : ON PETITION
Filed: March 19, 2007 :
Attorney Docket No. 8258 :

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

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 1, 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 July 2, 2010.

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

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

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

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

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SEP 22 2010

OFFICE OF PETITIONS

MONTO H. KUMAGAI
36785 RUSSELL BOULVARD
DAVIS, CA 95516

In re Application of :
Monto H. Kumagai, et al. :
Application No. 11/688,260 : ON PETITION
Filed: March 20, 2007 :
Attorney Docket No.: None :

This is a decision in response to the renewed petition, filed June 24, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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.

Accordingly, the petition is **GRANTED**.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received November 9, 2009.

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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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Fellers, Snider, Blankenship, Bailey & Tippens, PC
(Seagate Technology LLC)
100 North Broadway, Suite 1700
Oklahoma City OK 73102-8820

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SEP 14 2010

OFFICE OF PETITIONS

In re Application of :
Scura et al. :
Application No. 11/688,405 :
Filed: March 20, 2007 :
Attorney Docket No. 3123-713-1 :
(STL07781.10)

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 20, 2007. The delay in rendering a decision on this petition is regretted.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO 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)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The required petition fee of $200, under 37 CFR 1.17(g), has been charged to Deposit Account 06-040, as authorized.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the 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 David Chew, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged,

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 to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing David Chew. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made available in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to the inventors' personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventor's last known address. Therefore, at the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to the forwarding address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions. It is noted that in the instant petition a reference is made to "an Internet and 411 search". However, no documented evidence of the results of that search have been included with the instant petition.

The attempts at contacting the non-signing inventor David Chew, through the joint inventor John Scura, as disclosed in the declaration by Corina Aschenbrenner, have been reviewed. Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A courtesy copy of the decision is being mailed to the address on the petition. However, all future correspondence will only be mailed to the correspondence address of record.

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

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-4914.

Rajnesh Krishnamurthy

Rajnesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Fellers, Snider, Blankenship, Bailey & Tippens, PC
(Seagate Technology LLC)
100 North Broadway, Suite 1700
Oklahoma City OK 73102-8820

In re Application of :
Scura et al. : DECISION ON STATUS
Application No. 11/688,405 : UNDER 37 CFR 1.47(a)
Filed: March 20, 2007 :
Attorney Docket No. 3123-713-1 :
(STL07781.10)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November12, 2010.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor cannot be found or reached after diligent effort to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Mr. David Chew,
2538 Bentley Ridge Drive,
San Jose, CA 95138

In re Application of
John Scura, John Beley, David Chew, Wendy Lorimer, Babu Rahman and Frank Morris
Application No. 11/688,405
Filed: March 20, 2007
For: ROTARY ACTUATOR MOTOR FOR DISK DRIVE

Dear Mr. Chew:

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 the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272 - 4914. 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).

Rajnesh Krishnamurthy

Rajnesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Fellers, Snider, Blankenship, Bailey & Tippens, PC
(Seagate Technology LLC)
100 North Broadway, Suite 1700
Oklahoma City OK 73102-8820

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SABIC Innovative Plastics - IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

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MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Ye-Gang LIN et al. :
Application No. 11/688,440 : ON PETITION
Filed: March 20, 2007 :
Attorney Docket No. 218638-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2011, to revive the above-identified application.

The petition is **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 April 23, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 24, 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, a Request for Continued Examination, and the $810 filing fee; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of April 23, 2010 is accepted as having been unintentionally delayed.

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

Application No. 11/688,440

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 David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 1765 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

Cc: CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : May 16,2011

In re Application of :

Satoru Ohishi

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11688441

Filed : 20-Mar-2007

Attorney Docket No : 305666US2SX CIP

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 16,2011 , 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

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	11688441
Filing Date	20-Mar-2007
First Named Inventor	Satoru Ohishi
Art Unit	2624
Examiner Name	SHEELA CHAWAN
Attorney Docket Number	305666US2SX CIP
Title	3D-IMAGE PROCESSING APPARATUS, 3D-IMAGE PROCESSING METHOD, STORAGE MEDIUM, AND PROGRAM

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	/Eckhard H. Kuesters/
Name	Eckhard H. Kuesters
Registration Number	28870

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United States Patent and Trademark Office
P.O. Box 1450
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SHINJI SHIMADA
1-2 , HIGASHI 2-CHOME
OKEGAWA 363-0-013 JP JAPAN

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Shinji Shimada :
Application No. 11/688,487 : DECISION ON PETITION
Filed: March 20, 2007 :
Attorney Docket No. :

This is a decision on the renewed petition, filed July 27, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On April 17, 2009, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on July 18, 2009, for failure to submit a timely response to the April 17, 2009 Office action. On December 1, 2009, the Office mailed a Notice of Abandonment.

Petitioner argues that a reply was timely filed on June 9, 2009 by Japan Express Mail EE415184006. However, the reply was not received by the Office. Any correspondence received by the US Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed within the USPTO on the date of deposit with the USPS.

A review of the record shows that petitioner's reply to the outstanding Office action mailed April 17, 2009 was received on the Office on June 11, 2009 and inadvertently created into a new application. The reply included the following papers: a reply with oath, specification, amendment to the claims and drawing. The copy of the reply received December 29, 2009.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**. The copy of the reply received with the petition will be accepted in place of the reply shown to have been received on June 11, 2009.

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

This application is being referred to Technology Center AU 2817 for processing of the amendment previously filed December 30, 2009.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application:
Moo Ho Bae et al.
Application No. 11/688,527
Filed: March 20, 2007
Attorney Docket No. 305411US8

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 8, 2008. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

This file is being forwarded to the Technology Center 3662.

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

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BALLARD SPAHR LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Stephen Bruce LOBER	:	
Application No. 11/688,598	:	DECISION ON PETITION
Filed: March 20, 2007	:	
Attorney Docket No. 12146.0003U2	:	

This is a decision on the petition, filed April 15, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final Office action mailed February 22, 2010, which set a three (3) month shortened statutory period for reply. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 23, 2010.

Petitioner asserts that a reply along which included a three (3) month extension of time was filed on August 23, 2010.

The Office acknowledges the receipt of the documents on August 23, 2010. However, the reply along with the three (3) month extension of time was due by August 22, 2010 to make the reply timely. Therefore the petition can not be granted.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), $810.00 for a small entity or $1,620.00 for a large entity,
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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BALLARD SPAHR LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of :
Stephen Bruce LOBER :
Application No. 11/688,598 : DECISION ON PETITION
Filed: March 20, 2007 :
Attorney Docket No. 12146.0003U2 :

This is a decision on the renewed petition, filed June 09, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is GRANTED.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 23, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 24, 2010. *See* MPEP 1215.04.

Petitioner states that a timely reply, along with a five (5) month extension of times as permitted under the provisions of 37 CFR 1.136(a) was not due to be filed until March 23, 2011.

A review of the Office records indicates that the reply was in fact not due to be filed in the Office until March 23, 2011. The petitioner has filed a RCE along with a five (5) month extension of time, which would have rendered the reply timely if received.

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

This application is being referred to Technology Center AU 3725 for processing of the RCE filed March 23, 2011and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FENNEMORE CRAIG
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, AZ 85012

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
Art Townsend :
Application No. 11/688,615 : ON PETITION
Filed: March 20, 2007 :
Attorney Docket No.: 28772.001 :

This is a decision in response to the petition, filed August 26, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b)..

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 19, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 20, 2009. A Notice of Abandonment was mailed on March 24, 2010. On August 26, 2010, the present petition was filed.

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

The application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the amendment received August 26, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

30 SEP 2010

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

In re Application of	:	
ALMOG et al.	:	DECISION ON PETITION
Application No.: 11/688,709	:	UNDER 37 CFR 1.78(a)(3)
Filed: March 20, 2007	:	
Attorney Docket No.: 200316252-2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 01 September 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/IL2004/000871, filed 20 September 2004, set forth in the concurrently filed amendment.

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

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge

fee required by 37 CFR 1.17(t) has been submitted (the surcharge has been charged to Deposit Account 08-2025); and (3) the statement contained in the petition filed 01 September 2009 that the "entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date of this petition was unintentional" has been construed as 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. Petitioner must notify the Office if this is not a correct reading of the statement in the petition. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Daniel Stemmer at 571-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 1795 for appropriate action on the amendment filed 01 September 2009, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/IL2004/000871, filed 20 September 2004.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Intellectual Property Administration
3404 E. Harmony Road
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FORT COLLINS CO 80528

In re Application of	:	
ALMOG et al.	:	DECISION ON PETITION
Application No.: 11/688,709	:	UNDER 37 CFR 1.78(a)(3)
Filed: March 20, 2007	:	
Attorney Docket No.: 200316252-2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 01 September 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/IL2004/000871, filed 20 September 2004, set forth in the concurrently filed amendment.

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

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge

fee required by 37 CFR 1.17(t) has been submitted (the surcharge has been charged to Deposit Account 08-2025); and (3) the statement contained in the petition filed 01 September 2009 that the "entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date of this petition was unintentional" has been construed as 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. Petitioner must notify the Office if this is not a correct reading of the statement in the petition. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Daniel Stemmer at 571-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 1795 for appropriate action on the amendment filed 01 September 2009, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/IL2004/000871, filed 20 September 2004.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Eko N. Onggosanusi, et al.	:	
Application No. 11/688,756	:	DECISION ON PETITION
Filed: March 20, 2007	:	
Attorney Docket No. TI-62290	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 19, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 20, 2010. The Notice of Abandonment was mailed October 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $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 2611 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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Commissioner for Patents
United States Patent and Trademark Office
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MAR 27 2012
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
Eko N. Onggosanusi, et al. :
Application No. 11/688,756 : DECISION ON PETITION
Filed: March 20, 2007 :
Attorney Docket No. **TI-62290** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 4, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 5, 2011. The Notice of Abandonment was mailed February 17, 2012.

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, 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 2611 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of :
Sudhir Bhide : DECISION ON PETITION
Application No. 11/688,762 :
Filed: March 20, 2007 :
Atty Docket No. 725044 / :
020306-001700US :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed April 1, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed August 3, 2010. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective November 4, 2010. A courtesy Notice of Abandonment was mailed on February 17, 2011.

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.

Technology Center AU 1784 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed April 1, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/21/12

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11688836 Patent No.: 7614640

CofC mailroom date: 03/12/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Should the changes to claims 1 and 16 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

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

Comments: _____

_____

_____

_____

_____

_____ 3618

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
JUN 01 2011
OFFICE OF PETITIONS

MICHAEL A DESANCTIS
HAMILTON DESANCTIS & CHA LLP
FINANCIAL PLAZA AT UNION SQUARE
225 UNION BOULEVARD SUITE 150
LAKEWOOD CO 80228

In re Application of :
Rohan, et al. :
Application No. 11/688,857 : ON PETITION
Filed: March 20, 2007 :
Attorney Docket No. RIVT-000110 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 18, 2011.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed December 1, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on March 2, 2010.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2178 for consideration of the Amendment, filed May 18, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11688857	Confirmation Number	1813	Filing Date	2007-03-20
Attorney Docket Number (optional)	RIVT-000110	Art Unit	2178	Examiner	Robinson, Marshon
First Named Inventor	Michael L. Rohan				
Title of Invention	CACHING ARCHITECTURE FOR ENTERPRISE-LEVEL TRANSACTION ANALYSIS AND REPORTING				

Attention: Office of Petitions
An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Michael	L.	Rohan	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Michael A DeSancctis/	Date (YYYY-MM-DD)	2011-09-13
Name	Michael A. DeSanctis	Registration Number	39957

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Michael L. Rohan

Application No. 11688857

Filed: March 20,2007

Attorney Docket No. RIVT-000110

:
:
: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 13-SEP-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

Decision Date : July 24,2011

In re Application of :

Gerald Kearby

Application No : 11688861

Filed : 20-Mar-2007

Attorney Docket No : P-2398

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed July 24,2011 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

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

Office of Petitions

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	11688861
Filing Date	20-Mar-2007
First Named Inventor	Gerald Kearby
Art Unit	2626
Examiner Name	SUSAN MCFADDEN
Attorney Docket Number	P-2398
Title	PERSONAL HEARING SUITE

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

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

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

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

☒ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/James D. Ivey/
Name	James D. Ivey
Registration Number	37016

PRINTER RUSH

(PTO ASSISTANCE)

Application:	11688913	Examiner:	NGUYEN	GAU:	2617
From:	Eugene Chrzanowski	Location:	IDC	Creation Date:	09/17/2010

Tracking #: Week Date. 05/24/2010

DOC CODE	DOC DATE	MISCELLANEOUS
[X] 1449	10/19/2007	[ ] Continuing Data
[ ] IDS		[ ] Foreign Priority
[ ] CLM		[ ] Document Legibility
[ ] HFW/FWCLM		[ ] Fees
[ ] SRFW		[ ] Other
[ ] DRW		
[ ] OATH		
[ ] 312		
[ ] SPEC		

[RUSH] Message:

Please initial/line through citations on 1449 forms dated 10/19/07, 11/16/15, 02/15/08, 06/07/08, 12/13/08, 06/07/09, and 09/25/09. Each page must be individually stamped as per MPEP 609.08. Thank you

[XRUSH] Response:

see attached IDS

09/28/2010 Initials: /D.N./

Examiner: PUBS contacts - for DESIGNS: Lion Fairchild, 703-756-1566; for ALL OTHER files: Bernadette Queen, 703-756-1565
NOTE: This form will be included as part of the official USPTO record with the response document coded as XRUSH
REV: Sep 10

UNITED STATES 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 COUNSEL
SCHLUMBERGER RESERVOIS COMPLETIONS
SCHLUMBERGER TECHNOLOGY CORPORATION
14910 AIRLINE ROAD
ROSHARON, TX 77583

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of :
Zafari et al. :
Application No. 11/688,934 : ON PETITION
Filed: March 21, 2007 :
Attorney Docket No. 69.5720 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The 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.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 16, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is March 17, 2010. A Notice of Abandonment was mailed August 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540, (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. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. 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.

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.

Petitioner should note, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with on April 20, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 3676 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: JUANITA SALAZAR
1939 W. GRAY
SUITE 401
HOUSTON, TX 77019

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/18/11

TO SPE OF : ART UNIT: 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/688,947 Patent No. 7,780,766

CofC mailroom date 10/4/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: ok to enter

/Duane Smith/
SPE

1776
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/688,983	03/21/2007	Hyeon Myeong	1907.1105	1048

21171 7590 03/25/2011

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
AMIN, BHAVESH V	
ART UNIT	**PAPER NUMBER**
3664	

MAIL DATE	DELIVERY MODE
03/25/2011	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 2 5 2011

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005

In re Application of	:	
Hyeon Myeong et al.	:	
Appl. No. 11/688,983	:	DECISION ON PETITION
Filed: March 21, 2007	:	UNDER 37 CFR 1.181
For: ROBOT AND METHOD AND MEDIUM	:	TO WITHDRAW FINALITY
FOR LOCALIZING THE SAME BY	:	
USING CALCULATED COVATIANCE	:	

This is a decision on Applicant's Petition filed on December 28, 2010 to Withdraw the Finality of the Office action mailed on October 20, 2010.

The Petition is **DISMISSED AS MOOT.**

On October 10, 2010 the Office mailed a Final Office action rejecting all of the claims. On December 28, 2010, Applicant filed a petition to withdraw the finality of the Office action mailed October 10, 2010. In the petition, Applicant indicates that the finality of the action is premature because the non-patent literature used in the 35 USC 102 rejection was not included with the Office action.

Upon review of the record, a Supplemental Final Office action was sent on February 03, 2011 along with a copy of the previously missing reference. A new shortened statutory period for response has been reset from the mailing date of the Supplemental Final Office Action. Since a new Final Office Action has been sent and the period for reply has been reset, Applicant's petition to withdraw the finality of the office action of December 28, 2010 is moot.

Applicant remains responsible for taking proper action in response to the Final Office Action mailed February 03, 2011.

Any questions regarding this decision should be directed to Khoi Tran at 571-272-6919.

Katherine Matecki

Katherine Matecki, Director
Technology Center 3600
571-272-5250

/TL/

UNITED STATES 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: 011/23/11

Patent No. : 7154485 B2
Ser. No. : 11/689,023
Inventor(s) : **Liao , et al.**
Issued : **December 26, 2006**
Title : **TOUCH PANEL MODULE**
Docket No. : **PT-00019**

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

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

Flash Intellectual Property, Inc.
Attn. Cheng-Ju Chiang
P.O. Box 766
Chino CA 91708

LMN

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))**
Application Number	11689070
Filing Date	21-Mar-2007
First Named Inventor	Zhe Fan
Attorney Docket Number	2007P05980US/SIE0041-00
Title of Invention	SPURIOUS MOTION FILTER

Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 8125522 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

☒ I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.

Correction of Assignee

Current Assignment Listed (240 char limit)
The assignment information is currently listed as:

Siemens Industry, Inc., Alpharetta, GA (US)

Update Assignment Listing to (240 char limit)

Change assignment information to the following:

Siemens Aktiengesellschaft, Munich (DE)

☒ As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).

◯ Applicant(s) status remains as OTHER THAN small entity.

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

◯ Applicant(s) status remains as SMALL ENTITY.

◉ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole inventor

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

◯ A joint inventor; all of whom are signing this request

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

Signature	/Andrea L. Evensen/
Name	Andrea L. Evensen
Registration Number, if applicable	56531

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date:	April 20, 2012
In re Patent No.	8125522
Issue Date:	28-Feb-2012
Application No	11689070
Filed date	21-Mar-2007
Attorney Docket No	2007P05980US/SIE0041-00

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

This is an electronic decision on the request filed April 20, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

Siemens Industry, Inc., Alpharetta, GA (US)

Change Assignment Information to the Following:

Siemens Aktiengesellschaft, Munich (DE)

The request is GRANTED.

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

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101006

DATE : September 30, 2010

TO SPE OF : ART UNIT 2474

SUBJECT : Request for Certificate of Correction on Patent No.: 7,729,248

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:

/AUNG S MOE/
Supervisory Patent Examiner.Art Unit 2474

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : April 27,2011

In re Application of :

Andrew Van Luchene

Application No : 11689112

Filed : 21-Mar-2007

Attorney Docket No : 3301114

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 April 27,2011

The request is **APPROVED.**

The request was signed by Ellen Gonzales (registration no. 44128) on behalf of all attorneys/agents associated with Customer Number 52297 . All attorneys/agents associated with Cusotmer Number 52297 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	Andrew Van Luchene
Name2	
Address 1	1012 Marquez Pl #205a
Address 2	
City	Santa Fe
State	NM
Postal Code	87505
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	11689112
Filing Date	21-Mar-2007
First Named Inventor	Andrew Van Luchene
Art Unit	2164
Examiner Name	BELIX ORTIZ
Attorney Docket Number	3301114
Title	Scanning and Altering Patent Applications

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 52297

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

10.40(c)(1)(iv)

10.40(b)(c)(1)(vi)

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	Andrew Van Luchene
Address	1012 Marquez Pl #205a
City	Santa Fe
State	NM

Postal Code	87505
Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Ellen Gonzales/
Name	Ellen Gonzales
Registration Number	44128

UNITED STATES 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 P.C. (DC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
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OFFICE OF PETITIONS

In re Patent No. 8,024,508
Issued: September 20, 2011
Application No. 11/689,129
Filed: March 21, 2007
Attorney Docket No: 20519-0022001

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

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on November 21, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 564 to 684 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of FIVE HUNDRED FIFTY-FIVE days.

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

On September 20, 2011, the above-identified application matured into U.S. Patent No. 8,024,508 with a patent term adjustment of 564 days. On November 21, 2011, Patentees submitted the instant application. Patentees disclose that the patent term adjustment indicated on the front of the patent is incorrect because Applicant was accorded 0 days delay for a post-allowance filing. In good faith and candor, Patentees submit that the post-allowance filing of the Information Disclosure Statement should have been accorded a total Applicant Delay of 9 days for delay from June 15, 2011, to June 23, 2011 rather than 0 days, as indicated in the calculation. Patentee respectfully requests that the Office recalculate this period of Applicant Delay as 9 days. See 37 C.F.R. § 1.704(c)(10).

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 11 days (i.e., the sum of 2 days and 9 days).

Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on May 25, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 129 day period from May 25, 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 129 days and be increased from 7 to 136 days.

Patentee concludes that the correct patent term adjustment is 684 days (the sum of 559 days of "A delay" and 136 days of "B delay" minus 11 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
> or
> (ii) Four months;

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentees argues that for the filing of the Information Disclosure Statement on June 15, 2011 should have been accorded Applicant delay in the amount of 9 days for delay from June 15, 2011, to June 23, 2011 rather than 0 days for the post-allowance filing.. See 37 C.F.R. § 1.704(c)(10).

Applicant's arguments have been considered. The patent incorrectly shows a reduction of 0 days, rather than 9 days for applicants' filing of the Information Disclosure Statement pursuant to 37 C.F.R. § 1.704(c)(10) after the mailing of the notice of allowance.

For the filing of the Information Disclosure Statement on June 15, 2011, a delay of 9 days is being entered pursuant to 37 CFR § 1.704(c)(10).

As it relates to the calculation of "B delay, Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 7 days based on the application

having been filed under 35 U.S.C. 111(a) on March 21, 2007 and the patent not having issued as of the day after the three year date, March 21, 2010, and a request for continued examination under 132(b) having been filed on March 29, 2010. In other words, the 129-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

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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.

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

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

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

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

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

the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

[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 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

[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.

examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on March 29, 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 March 29, 2010 and ending on September 20, 2011 is not included in calculating Office delay.

CONCLUSION

As such, the patent term adjustment is 555 days (559 "A delay" days plus 7 "B delay" days minus 11 Applicant delay days), not 476 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred fifty-five (555)** days.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,024,508 B2

DATED : September 20, 2011

INVENTOR(S) : Sung-Ho Son

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 (564) days

Delete the phrase "by 564 days" and insert – by 555 days--

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Dillon, David	:	
Application No. 11/689,144	:	DECISION GRANTING PETITION
Filed: March 21, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 102980.58649US3	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 31, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed Application No. 10/701,377, filed November 3, 2003, 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).

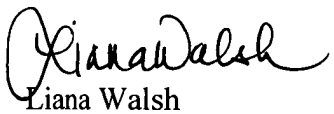
The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (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 3621 for appropriate action on the amendment filed August 31, 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
11/689,144	03/21/2007	3621	2050	102980.58649US3	61	9

CONFIRMATION NO. 1340

CORRECTED FILING RECEIPT

23911
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Date Mailed: 09/27/2010

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

Applicant(s)

David Dillon, Excelsior, MN;

Assignment For Published Patent Application

MEYERS PRINTING COMPANY, Minneapolis, MN.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/578,037 05/02/2006
which is a 371 of PCT/US04/36751 11/03/2004
which is a CIP of 10/701,377 11/03/2003 PAT 7,752,137

Foreign Applications

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 11/689,144**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Authentication and Tracking System

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).

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BRANIGAN, P.C.
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SUITE 1400
ARLINGTON VA 22201

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of :
Clemeston :
Application No. 11/689,392 : ON PETITION
Filed: March 21, 2007 :
Attorney Docket No. **AVENT-0002-D02**

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2012, to revive the above-identified application.

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

The above-identified application became abandoned on September 2, 2011, for failure to file a proper reply to the final Office action mailed June 1, 2011, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed January 9, 2012.

The Request for Continued Examination filed March 9, 2012, is noted.

The application file is being directed to Technology Center GAU 1647 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/689,414	03/21/2007	Ray Grieselhuber	SEMD-004/01US 306974-2007	1852

23419 7590 11/08/2010

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
Washington, DC 20001

EXAMINER	
CORBO, GRISELLE	

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
11/08/2010	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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Kyle M. Pendergrass
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

In re Application of:
GRIESELHUBERT et al.
Application No. 11/689,414
Filed: March 21, 2007
For: SYSTEM AND METHOD FOR MEASURING THE EFFECTIVENESS OF AN ON-LINE ADVERTISEMENT CAMPAIGN

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition, filed 14 September 2009, under 37 CFR § 1.181 seeking relief from the TC Director to find the Finality of the Office Action mailed 30 July 2009 is premature.

The petition is **DENIED**.

In the petition, applicant's counsel alleged that the new ground rejection of claims 6 and 24 under 35 U.S.C. § 103 as being unpatentable over Schachter in view of Horowitz is un-warranted and does not place applicant on adequately notice of the examiner's reliance on this new ground of rejection.

BACKGROUND

21 March 2007	Application was filed with claims 1-38 whereas claims 1 and 19 were independent claims and claims 6 and 24 were directly depending on independent claims 1 and 19, respectively.
08 January 2209	A non-final was mailed; claims 1-5, 12-16 19-23, 30-34 and 37-38 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schachter; and claims 6-10, 17-18, 24-28 and 35-36 were rejected under 35 U.S.C. § 103 as being unpatentable over Schachter in view of Horowitz et al (hereinafter "Horowitz").
12 March 2009	An amendment was filed; claims 6 and 24 were amended to become independent claims and were incorporated, respectively, all limitations of

	the original independent claims 1 and 19; further, **claim 6 was amended from a method claim to a computer program product claim**.
20 May 2009	Final Office Action was mailed; the examiner stated that claims 6 and 24 are rejected under 35 U.S.C. § 103 as being unpatentable over Schachter in view of Horowitz and made the Office Action Final as being necessitated by the amendment of 12 March 2009.
10 July 2009	Amendment-after-Final was filed; applicant argued that the Final Office Action of 20 May 2009 is improper.
30 July 2009	A new Final Office Action was mailed; it is noted that the new Final Office Action is substantially same as the Final Office Action of 20 May 2009 and provided a response to applicant's argument.
14 September 2009	The instant petition was filed.

RULES and PROCEDURES

MPEP § 706.07(a) states in part 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) ... [Emphasis added.]

MPEP § 1201 states, in part:

> ... The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

Decision

A review of the application indicates that both the Schachter reference and the Horowitz reference were used and applied against the original dependent claims 6 and 24 as being unpatentable under 35 U.S.C. § 103 in which claims 6 and 24 were directly depended on the original independent claims 1 and 19 at the time; further review indicates that amended claim 6 was amended from a method/process claim to a computer program product claim. Thus, amended claim 6 was properly made Final as being necessitated by the amendment of 12 March 2009 and amended claim 24 was properly made Final since this claim 24 was once rejected on

the same ground. Pursuant to MPEP § 706.07(a), the Final Office Action made on 30 July 2009 is proper and should not be withdrawn. Further, it is pointed that both Schachter reference and Horowitz reference were available to applicant for consideration at the time applicant was preparing and filing the response of 12 March 2009; therefore, did not fail to place applicant on adequately notice of the examiner's reliance on the ground of obvious type rejection.

Pursuant to MPEP § 1201, disagreement between the examiner and applicant's representative on how to interpret the limitations in a claim(s) or whether the references disclose the limitations is appealable, not a petitionable matter.

For the above stated reasons, the petition is **DENIED.**

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Jack B. Harvey, Director
Technology Center 2100
Computer Architecture and Software

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SEP 13 2010

OFFICE OF PETITIONS

KARL V. KURPLE
400 DULANY STREET
ALEXANDRIA, VA 22314

In re Application of	:	
David E. Ashpis	:	
Application No. 11/689,431	:	DECISION ON PETITION
Filed: March 21, 2007	:	TO WITHDRAW
Attorney Docket No. 8322	:	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 9, 2010.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Karl V. Kurple. Karl V. Kurple has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed August 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: **WOODLING, KROST AND RUST**
9213 CHILLICOTHE ROAD
KIRTLAND OH 44094

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

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NOV 16 2010

OFFICE OF PETITIONS

In re Application of :
Bradley C. Giles et al. :
Application No. 11/689,441 : NOTICE
Filed: March 21, 2007 :
Attorney Docket No. **15455.10.1** :

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) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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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 :
William E. Clemenson, et al. :
Application No. 11/689,449 : DECISION ON PETITION
Filed: March 21, 2007 : TO WITHDRAW
Attorney Docket No. 026626-0001110US : 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 23, 2011.

The request is **APPROVED**.

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

The request was signed by David A. Hall on behalf of all attorneys of record who are associated with customer No. 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.

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 29, 2011 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: HTS, LLC
1145 GAYLEY AVENUE
SUITE 303
LOS ANGELES, CA 90024

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/689,449	03/21/2007	William E. Clemenson	026626-000110US

CONFIRMATION NO. 1915

POWER OF ATTORNEY NOTICE

20350
KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000048848780

Date Mailed: 07/19/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/23/2011.

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

/amwise/

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

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

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OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
Michael E. Buckley, et al. :
Application No. 11/689,495 : ON PETITION
Filed: March 21, 2007 :
Attorney Docket No. CS33132 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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 December 24, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 25, 2010. The Notice of Abandonment was mailed July 14, 2010.

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

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

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

This application is being referred to Technology Center AU 2464 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Christopher . Reckamp**
222 N. LaSalle Street
Chicago, IL 60601

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JAN 10 2011

OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of :
Omar Ismail, et al. :
Application No. 11/689,502 :
Filed: March 21, 2007 :
Attorney Docket No. **2007750-0001** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed December 8, 2010.

The request is **NOT APPROVED**.

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

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FOLEY & LARDNER LLP**
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

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JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

JAN 3 1 2012

OFFICE OF PETITIONS

In re Application of
Donald G. Cox
Application No. 11/689,638
Filed: March 22, 2007
Attorney Docket No. 57015-340945

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 January 23, 2012.

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 signing 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.

According to the records an assignment was recorded on June 5, 2007. In order to change the correspondence address and grant the request to withdraw from record, a copy of the actual assignment or a statement under 37 CFR 3.73(b), must be submitted.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/689,676	03/22/2007	Dominic John Repici	IPP0002b	2330

36158 7590 09/30/2010

DOMINIC JOHN REPICI
120 JEFFERSON ST.
RIVERSIDE, NJ 08075

EXAMINER	
BROWN JR, NATHAN H	

ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
09/30/2010	PAPER

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

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

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DOMINIC JOHN REPICI
120 JEFFERSON ST.
RIVERSIDE NJ 08075

In re Application of
Dominic John Repici
Application No.: 11/689676
Filed: March 22, 2007
For: NEURON AND NEURON METHOD FOR ARTIFICIAL NEURAL NETWORKS

DECISION ON PETITION
Under 37 CFR 1.181 To Withdraw Final Rejection

This is a decision on the petition under 37 C.F.R. 1.181 filed August 26, 2010, requesting the TC Director to invoke supervisory authority and withdraw the finality of the office action mailed June 28, 2010.

BACKGROUND

A first office action was issued November 13, 2009 rejecting independent claims 21, 30 and 39 under 35 USC §102(b) as being anticipated by Li . None of the dependent claims 22-29, 31-38 and 40 were rejected under art. In addition, claims 21 – 40 were rejected as being directed to nonstatutory subject matter under 35 USC§101.

A response to the first Office action was timely filed and received in the Patent and Trademark Office on March 12, 2010. As part of the response, claim 31 was canceled, and claim 30 was amended to include all of the limitations of claim 31, among other changes. The amendment was held non-compliant in a Notice of non-compliant amendment mailed May 11, 2010. On June 3, 2010, applicant filed a supplemental response including the above amendments to claim 21.

A second office action was issued on June 28, 2010, withdrawing all rejections of claims in view of Li and rejecting claim 30 as amended, under 35 USC §102(b) as being anticipated by Beaugé, in addition to rejection of some of the remaining claims; this is a new ground of rejection. The examiner made the second Office action final.

REGULATIONS AND PRACTICE

MPEP § 706.07(a) states in part:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based

on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

.....
.....

A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed.

....
....
However, note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph)

OPINION

Petitioner points out that the Beaugé reference used in the final rejection was not of record. Petitioner further contends that all of the changes made to claims in the response filed June 3, 2010 were suggested by examiner during multiple interviews between petitioner, examiner and examiner's Supervisor conducted after mailing of the nonfinal action and before the filing of the June 3, 2010 response. Specifically, petitioner contends that during one of these interviews it was agreed that claim 31 could be added to claim 30 along with showing a tangible memory for the "means for storing..." ...for allowance. In support of his contention, petitioner has cited Examiner Interview Summary mailed January 11, 2010. Petitioner asserts that the finality of the action mailed June 28, 2010 including a rejection of claim 30 in view of prior art not of record (Beaugé) is improper, since the amendment to claim 30 only added limitations which should reasonably have been expected to be claimed.

A review of the file record indicates the amendment to claim 30 only combines the limitations from claims 30 (previously rejected in view of Li) and dependent claim 31, not previously rejected under art. Since the Beaugé reference was available to the public at the time the first office action was issued, there is no evidence on record as to why the Beaugé reference could not be applied against claim 31, which was not rejected under prior art in the previous action. Since amended claim 30 incorporates all of the limitations from canceled claim 31, the rejection of claim 30 in view of Beaugé applied for the first time in the final action of June 28, 2010 amounts to rejecting a claim previously not rejected under art, thus is not necessitated by applicant's amendment. Therefore, to add the rejection of claim 30 over Beaugé to address the same limitations previously recited in claim 31 not previously rejected under art and make the rejection final as being necessitated by the amendment is in error under MPEP § 706.07(a).

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the final Office action of June 28, 2010 is **GRANTED**.

The application file is being forwarded to the technical support staff for withdrawal of the finality of the Office action of June 28, 2010 and entry of the amendments filed August 27, 2010 and September 27, 2010. From there the application will be forwarded to the examiner for further action as appropriate.

for

Wendy Garber, Director
Technology Center 2100

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Kathy Males
Pac'n Go REC, Inc.
13655 W. Greenview Drive
Wadsworth IL 60083

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Kathy M. Males	:	
Application No. 11/689,912	:	DECISION ON PETITION
Filed: March 22, 2007	:	
Attorney Docket No. 3716870-005	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 14, 2010. The Notice of Abandonment was mailed April 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

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JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Marvin S. KESHNER, et al :
Application No. 11/689,952 : ON PETITION
Filed: March 22, 2007 :
Attorney Docket No. 6341P3195 :

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

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 27, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

By hand: U. S. Patent and Trademark Office

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

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

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

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

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/689,952	Applicant(s) KESHNER ET AL.	
	Examiner NIKHIL MASHRUWALA	Art Unit 3749	

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

THE REPLY FILED 03 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL.

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): ___.
6. ☐ Newly proposed or amended claim(s) ___would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: ___.
   Claim(s) objected to: ___.
   Claim(s) rejected: *1-28*.
   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: as mentioned above.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: ___.

/Nikhil Mashruwala/
Examiner, Art Unit 3749

Continuation of 3. NOTE: The new limitation inindepedent claims 1 and 13 requires additional search and consideration.

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OFFICE OF PETITIONS

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

In re Application of :
Marvin S. KESHNER, et al :
Application No. 11/689,952 : ON PETITION
Filed: March 22, 2007 :
Attorney Docket No. 6341P3195 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 27, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 28, 2009.

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

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

This application is being referred to Technology Center AU 3749 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ Denied

State the reasons for denial below.

Comments: This correction is made the corrected claims are consistently with the allowable subject matter on all amended claims; and they are not changed the scope of the claim.

[signature] 2618

TRINH, TAN
Primary Examiner
10/3/2011

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/29/11

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11689962 Patent No.: 7996032

CofC mailroom date: 09/23/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes in the claims be approved?

Qamone 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.

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

MAILED

JUL 11 2011

OFFICE OF PETITIONS

In re Application of :
David A. Newman :
Application No. 11/689,975 : DECISION ON PETITION
Filed: March 22, 2007 : TO WITHDRAW
Attorney Docket No. 23769-18926 : 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 June 15, 2011.

The request is **APPROVED**.

A review of the file record indicates that Kevin J. Zimmer: (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, Kevin J. Zimmer 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 inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Kevin J. Zimmer
Cooley, LLP
Attn: Patent Department
777 6th Street, N.W., Suite 1100
Washington, DC 20001-3703

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/20/11

TO SPE OF : ART UNIT 2433

SUBJECT : Request for Certificate of Correction for Appl. No.: 11690054 Patent No.: 7917747

CofC mailroom date: 11/07/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director/SPE response to 571-273-8421

Note: **Please check the Claims 8 and 11.**

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: _____

_____

_____

_____

_____

Vivek Srivastava

SPE

2433

Art Unit

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WOODCOCK WASHBURN LLP
(MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:	
MOTTER	:	
Application No. 11/690,056	:	DECISION ON PETITION
Filed: March 22, 2007	:	
Attorney Docket No. 319259.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before May 3, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 3, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 4, 2011. A Notice of Abandonment was mailed June 2, 2011.

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

The Amendment pursuant to 37 CFR 1.312 is acknowledged and will be processed by the Technology Center.

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

All other inquiries should be directed to the Technology Center at (571) 272-2600.

The application is being referred to Technology Center AU 2624 for processing of the Amendment.

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

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MATTHEW D. RABDAU
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application of :
Ogata et al. :
Application No. 11/690058 :
Filing or 371(c) Date: 03/22/2007 :
Attorney Docket Number: :
8004 US : ON PETITION

This is a decision on the correspondence filed March 31, 2008, including the fee for a Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b). The correspondence is properly treated as a renewed petition under 37 CFR 1.137(b).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed March 30, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned May 31, 2007. A Notice of Abandonment was mailed December 5, 2007.

Applicant filed a petition and an executed oath/declaration on January 11, 2008; however, Applicant failed to include the petition fee.

The petition was dismissed in a Decision mailed March 24, 2008.

Applicant files the present renewed petition and includes the petition fee. 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 (filed January 11, 2008); (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for continued processing 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
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JONES DAY
222 EAST 41ST ST.
NEW YORK, NY 10017

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of
Richard P. Welle
Application No. 11/690,115
Filed: March 22, 2007
Attorney Docket No. 12709-007-999

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 November 16, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after

the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement are required.

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

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petition Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST.
NEW YORK, NY 10017

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Richard P. Welle :
Application No. 11/690,115 : DECISION ON PETITION
Filed: March 22, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 12709-007-999 :

This is a decision on the petition filed May 16, 2011 and supplemented on April 8, 2011 under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed April 8, 2011.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1772 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.

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
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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
11/690,115	03/22/2007	1772	6584	12709-007-999	87	10

CONFIRMATION NO. 3159

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

CORRECTED FILING RECEIPT

Date Mailed: 05/17/2011

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

Applicant(s)

Richard P. Welle, Huntington Beach, CA;

Power of Attorney: The patent practitioners associated with Customer Number 20583

Domestic Priority data as claimed by applicant

This application is a CIP of 10/877,691 06/24/2004 PAT 7,757,717
which is a CIP of 10/843,515 05/10/2004 PAT 7,694,694

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: 05/01/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/690,115**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Microfluidic Device for Inducing Separations by Freezing and Associated Method

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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Alexandria, VA 22313-1450
www.uspto.gov

RICK B. YEAGER, ATTORNEY
10805 MELLOW LANE
AUSTIN TX 78759

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of :
Mishko Teodorovich :
Application No. 11/690,130 : DECISION ON PETITION
Filed: March 23, 2007 :
Attorney Docket No. SSCMU :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, June 7, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 8, 2010. A Notice of Abandonment was mailed on May 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 (2).

As to item (2) the petition fee of $810 was not paid.

Consideration of this petition cannot be acted upon until the payment of the petition fee is made.

There is an option for the petitioner to file a petition under 37 CFR 1.181, if petitioner feels the Notice of Abandonment was mailed in error.

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

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MOTOROLA MOBILITY INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Application of :
Cooper, et al. :
Application No. 11/690,217 : ON PETITION
Filed: March 23, 2007 :
Attorney Docket No. BCS04219 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 11, 2012.

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

The above application became abandoned for failure to timely file a reply to the non-final Office action mailed August 10, 2009. This Office set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on November 11, 2009. The Office mailed a Notice of Abandonment on February 23, 2010.

With the instant petition, petitioner has made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2471 for consideration of the Amendment, filed January 11, 2012.

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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PATTON BOGGS LLP/ JOHNSON & JOHNSON
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application :
Jeannene Butler et al. :
Application No. 11/690,305 : DECISION ON APPLICATION
Filed: March 23, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. :
026038.0251PTUS

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b) filed June 28, 2011. Applicant requests that the determination of patent term adjustment be corrected from 391 to 790 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

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

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

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

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

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MESCHKOW & GRESHAM, P.L.C.
7250 NORTH SIXTEENTH STREET, SUITE 318
PHOENIX AZ 85020-5279

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Malov et al.	:	DECISION ON PETITION
Application No. 11/690,377	:	TO WITHDRAW
Filed: March 23, 2007	:	FROM RECORD
Attorney Docket No. 2297-090	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 8, 2010.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioners were not appointed via Customer Number. Therefore, requesting to withdraw via Customer Number is not the appropriate course.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicants or a proper change of correspondence address has been submitted.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

OCT 26 2010

OFFICE OF PETITIONS

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of	:	
Mark SENNOTT, et al	:	
Application No. 11/690,386	:	DECISION ON PETITION
Filed: March 23, 2007	:	TO WITHDRAW
Attorney Docket No. HGT-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 October 4, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

In this regard, the request to withdraw from record cannot be approved because the request does not include the correspondence address of an assignee who has been properly made of record under 37 CFR 3.71.

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

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

Cc: CATHY JAGER
COLLATERAL INTELLIGENCE,
18 NORTH MAIL STREET
SHERBORN, MA 01770

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of :
Mark SENNOTT, et al :
Application No. 11/690,386 : DECISION ON PETITION
Filed: March 23, 2007 : TO WITHDRAW
Attorney Docket No. HGT-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 October 29, 2010.

The request is **APPROVED**.

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

The request was signed by Brenda Flockhart-Shanks on behalf of the attorneys of record associated with Customer No.42532.

The attorneys of record associated with Customer No. 42532 have been withdrawn.

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

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

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

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

cc: MARK SENNOTT
3 SURREY LANE
SHERBORN MA 01770

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
11/690,386	03/23/2007	Mark Sennott	HGT-001A

CONFIRMATION NO. 3666

42532
PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

POWER OF ATTORNEY NOTICE

OC000000044391772

Date Mailed: 11/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2010.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KILPATRICK, STOCKTON & TOWNSEND, LLP
607 14TH STREET NW
SUITE 900
WASHINGTON, DC 20005

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Christopher James Leatt	:	
Application No. 11/690,412	:	DECISION GRANTING PETITION
Filed: March 23, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 62366-392987	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 28, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3772 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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DESIGN IP, P.C.
5100 W. TIGHMAN STREET
SUITE 205
ALLENTOWN, PA 18104

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
QUINN, SR.	:	
Application No. 11/690,417	:	DECISION ON PETITION
Filed: March 23, 2008	:	TO WITHDRAW
Attorney Docket No. PHE-10002/36	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2011.

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

A review of the file record indicates that the power of attorney to Damon A. Neagle and the attorneys associated with Customer No. 35775, has been revoked by the assignee of the patent application on January 5, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/14/10 **Paper No.:** _____

TO SPE OF : ART UNIT ~~2101~~ 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 11,690,617

Patent No.: ~~7759313~~ 7,694,471

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

FOR IFW FILES: Should COFC be approved

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

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

FOR PAPER FILES:

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

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

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 _____ **ART UNIT** 3633

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL I. KROLL
115 EILEEN WAY
SUITE 105
SYOSSET NY 11791

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Chester BROWN :
Application No. 11/690,756 : DECISION ON PETITION
Filed: March 23, 2007 :
Attorney Docket No. CB-1-AM :

This is a decision on the petition, filed June 3, 2010, which is being treated under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue fee on or before October 20, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 20, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 21, 2009. A Notice of Abandonment was mailed November 2, 2009.

In the petition filed June 3, 2010, petitioner asserts that the issue fee was timely paid on October 20, 2009. Petitioner further asserts that PTO Form PTOL-85 was completed and timely mailed by First Class Priority mail to the PTO with a proper Certificate of Mailing on October 19, 2009. As evidence, petitioner has included a copy of a check dated October 19, 2009, a copy of a delivery receipt confirmation and a Track and Confirm Search Results from the U.S. Postal Service. The Track and Confirm Search Results shows an attempted delivery was made on October 21, 2009.

The Office has reviewed the evidence submitted with the petition filed June 3, 2010, and has determined that the evidence fail to confirm that the issue fee was timely received in the Office. In this regard, the submission cannot be accepted as being timely filed because it does not include a proper certificate for each piece of correspondence stating the date of deposit or

transmission in accordance with 37 CFR 1.18. Petitioner should note that to receive the benefit of the date of deposit in the U.S. Postal Service, correspondence should either be properly filed under 37 CFR 1.8 (Certificate of Mailing or Transmission) or 37 CFR 1.10 (Express Mail).

Accordingly, absent the required evidence to establish that a response was timely and properly filed in response to the Notice dated July 20, 2009, the petition cannot be granted.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee (or $810 for small entity).

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

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MICHAEL I. KROLL
115 EILEEN WAY
SUITE 105
SYOSSET NY 11791

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Chester BROWN :
Application No. 11/690,756 : DECISION ON PETITION
Filed: March 23, 2007 :
Attorney Docket No. CB-1-AM :

This is a decision on the renewed 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 pay the issue fee on or before October 20, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 20, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 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 payment of the issue fee of $755; (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 the undersigned at (571) 272-6735.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Stolowitz Ford Cowger LLP / ptomail
621 SW Morrison Street
Suite 600
Portland OR 97205

MAILED
AUG 3 1 2011
OFFICE OF PETITIONS

In re Application of :
FLINN et al. :
Application No. 11/690,823 : DECISION ON PETITION
Filed: March 24, 2007 :
Attorney Docket No.: Many-07A-4 :

This is a decision on the petition filed July 28, 2011 in the above-identified application.

The petition is dismissed.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the other applicant has not given the one signing a power of attorney.

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.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Steven Dennis Flinn) was ever given a power of attorney to act on behalf of inventor Naomi Felina Moneypenny, or that petitioner Steven Dennis Flinn is an assignee of

the entire interest and has complied with the provisions of 37 CFR 3.73(b), no consideration on the merits can be given the petition.

Further, 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.

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

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

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

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

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

cc: **MANYWORLDS, INC.**
510 BERING DRIVE
SUITE 470
HOUSTON TX 77057

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.
11/690,823	03/24/2007	Steven Dennis Flinn	9740-0010	4594

11788 7590 02/06/2012

Stolowitz Ford Cowger LLP / ptomail
621 SW Morrison Street
Suite 600
Portland, OR 97205

EXAMINER	
WONG, LUT	

ART UNIT	PAPER NUMBER
2129	

NOTIFICATION DATE	DELIVERY MODE
02/06/2012	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):

ptomail@stofoco.com

Best Available Copy

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

Stolowitz Ford Cowger LLP / ptomail
621 SW Morrison Street
Suite 600
Portland OR 97205

In re Application of:
FLINN, Steven et al.
Application No. 11/690,823
Filed: March 24, 2007
For: **AFFINITY PROPAGATION IN ADAPTIVE NETWORK-BASED SYSTEMS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on December 13, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on December 13, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from December 13, 2011. 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 Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100

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	11690884
Filing Date	26-Mar-2007
First Named Inventor	Elizabeth Edmond
Art Unit	3775
Examiner Name	MATTHEW LAWSON
Attorney Docket Number	33939/47
Title	NON-PEDICLE BASED INTERSPINOUS SPACER

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32642

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

10.40(b)(4)

Certifications

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

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

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

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 102983

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/R. Whitney Johnson/
Name	R. Whitney Johnson
Registration Number	62997

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : February 13, 2012

In re Application of :

Elizabeth Edmond

Application No : 11690884

Filed : 26-Mar-2007

Attorney Docket No : 33939/47

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed February 13, 2012

The request is **APPROVED**

The request was signed by R. Whitney Johnson (registration no. 62997) on behalf of all attorneys/agents associated with Customer Number 32642 . All attorneys/agents associated with Customer Number 32642 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 102983 .

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER NY 14650-2201

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of :
Stacie L. Hibino et al. :
Application No. 11/690,994 : DECISION ON PETITION
Filed: March 26, 2007 :
Attorney Docket No. 92855JDP :

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 1, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed April 1, 2011, 2011. Accordingly, the date of abandonment of this application is July 2, 2011. A Notice of Abandonment was mailed on July 18, 2011.

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 20, 2012

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11691169 Patent No.: 8082183

CofC mailroom date: March 6, 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

_____ _____

Branch **Certificates of Correction**

703-756-1814 _____

Thank You For Your Assistance

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

☑ **Approved** — **All** changes apply.

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

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

Comments: _____

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

3/20/12

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/11/11

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11691210 Patent No.: 7909928

CofC mailroom date: 08/01/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

PAGE 1/2 * RCVD AT 8/16/2011 8:27:50 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/44 * DNIS:2733421 * CSID:703 306 3186 * DURATION (mm-ss):01-10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

_____

_____

_____

_____

_____ 1765

SPE **Art Unit**

PAGE 2/2 * RCVD AT 8/16/2011 8:27:50 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/44 * DNIS:2733421 * CSID:703 306 3186 * DURATION (mm-ss):01-10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of :
Yoichiro SHIMIZU, *et al.* :
Application No. 11/691,254 : DECISION DISMISSING PETITION
Filed: March 26, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **076376.0747** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT.**

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until March 8, 2011. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT GROUP 2N
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND OH 44114

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Ravathi Subramanian, et al. :
Application No. 11/691,277 : DECISION ON PETITION
Filed: March 26, 2007 :
Attorney Docket No. 343355600167 :

This is a decision on the petition under 37 CFR 1.182, filed, December 1, 2010, to correct the spelling of the name of inventor "Chao-wen Chen" to – Kevin Chaowen Chen --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

The issue fee in this case was paid on December 29, 2010. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

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 matter may be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
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
11/691,277	03/26/2007	3693	3430	343355600167	50	7

CONFIRMATION NO. 5396

CORRECTED FILING RECEIPT

24325
PATENT GROUP 2N
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

Date Mailed: 01/11/2011

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)

Ravathi Subramanian, San Diego, CA;
Radu Drossu, San Diego, CA;
Kevin Chaowen Chen, San Diego, CA;
Paul C. Dulany, San Diego, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/786,038 03/24/2006

Foreign Applications

If Required, Foreign Filing License Granted: 05/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/691,277**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

COMPUTER-IMPLEMENTED DATA STORAGE SYSTEMS AND METHODS FOR USE WITH PREDICTIVE MODEL SYSTEMS

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).

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: 68767.000003	
Application Number: 11/691,279	Filing Date (or 371(b) or (f) Date): 03/26/2007
Patent Number: 7,733,482	Issue Date: 06/08/2010
First Named Inventor: Harry E. Ruda	
Title: System And Method For Determining At Least One Constituent In An Ambient Gas Using A Microsystem Gas Sensor	

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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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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HUNTON & WILLIAMS, LLP/
SONY ERICSSON MOBILE COMMUNICATIONS (USA), INC.
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 08/13/2010

Applicant	: Harry E. Ruda	: DECISION ON REQUEST FOR
Patent Number	: 7733482	: RECALCULATION of PATENT
Issue Date	: 06/08/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/691,279	: OF WYETH
Filed	: 03/26/2007	:
		:

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.

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JAN 21 2011

OFFICE OF PETITIONS

DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS MI 48304-2970

In re Application of :
LYKOWSKI, et al :
Application No. 11/691,288 : DECISION ON PETITION
Filed: March 26, 2007 :
Docket No. IG-40669 (710240-2794) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The petition is **GRANTED.**

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required 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 $1730 extension of time fee submitted with the petition on December 20, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account 04-1061.

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

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

This application is being referred to Technology Center AU 2879 for appropriate action by the Examiner in the normal course of business.

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

cc: RICHARD D. JORDAN
1875 EYE STREET, NW
WASHINGTON, DC 20006

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Commissioner for Patents
United States Patent and Trademark Office
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ZAGORIN O'BRIEN GRAHAM LLP (027)
7600B N. CAPITAL OF TX HWY.
SUITE 350
AUSTIN TX 78731

MAILED

APR 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Jude Arvind BRITTO et al	:	**CORRECTED**
Application No. 11/691,300	:	DECISION ON PETITION
Filed: March 26, 2007	:	
Attorney Docket No. 027-0011	:	

This is a decision on the petition, filed November 08, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned by the examiner for failure to timely respond to the Office action of June 07, 2010, which set a one (1) month period for reply. A Notice of Abandonment was mailed on September 28, 2010.

Petitioner request that the Notice of Abandonment mailed on September 28, 2010 be withdrawn. Petitioner asserts that the time period for filing an Appeal Brief was reset to one (1) month from the Notice of Panel Decision mailed June 07, 2010. This time period was extendible under 37 CFR 1.136. Petitioner asserts that an Appeal Brief was not due to be filed until December 07, 2010, because of the five (5) months extension of time available.

A review of the file indicates that in response to the final rejection dated November 18, 2009 petitioner filed a Pre-Appeal Brief Request for Review on April 19, 2010. The response included a request for a two (2) month extension of time. On June 06, 2010 the examiner mailed a Notice of Panel Decision from Pre-Appeal Brief (Notice). The notice indicated that the application remains under appeal because there is at least one actual issue for appeal. The time period was reset to be one (1) month from the mailing of the decision with the time period being extendible under 37CFR 1.136b.

On September 28, 2010 the examiner mailed a Notice of Abandonment indicating that petitioner had failed to timely file a proper reply to the Office letter mailed June 07, 2010.

Here, the mailing of the Notice of Abandonment by the Primary Examiner in charge of the application is on its face erroneous as to the substance and form. The Office regrets the error. The present application is not in fact abandoned. Patent rules clearly provide for extension of times under 37 CFR 1.136b to respond to a Notice of Panel Decision. Petitioner has timely filed a five (5) month extension of time and an Appeal Brief. Accordingly, the Notice of Abandonment is withdrawn and the application is restored to pending status.

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

This application is being referred to Technology Center AU 2457 for appropriate action in the normal course of business on the reply received November 08, 2010 as well as the Appeal Brief filed on December 07, 2010.

/Thurman K Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

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BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS S.A.
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE LTD.
BUSINESS OBJECTS DATA INTEGRATION, INC.
3580 CARMEL MOUNTAIN RD., SUITE 300
SAN DIEGO, CA 92130

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Allerton et al.	:	DECISION ON PETITION
Application No. 11/691,346	:	TO WITHDRAW
Filed: March 26, 2007	:	FROM RECORD
Attorney Docket No. 34874-647F01US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 8, 2011.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Customer Number 83282, was revoked as attorney of record on April 7, 2011, by the assignee of record. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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

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SEP 28 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,737,127	:	
Issue Date: June 15, 2010	:	
Application No. 11/691,374	:	NOTICE
Filed: March 26, 2007	:	
Attorney Docket No. 1036.044US2	:	

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

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

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

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

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/691,377	Confirmation Number	5559	Filing Date	2007-03-26
Attorney Docket Number (optional)	1421-271	Art Unit	1638	Examiner	Anne KUBELIK
First Named Inventor	WILLIAM H. EBY				
Title of Invention	SOYBEAN CULTIVAR 6114011				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
William	H.	EBY	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

● (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Robert J. Jondle/	Date (YYYY-MM-DD)	2012-01-03
Name	Robert J. Jondle	Registration Number	33915

PTO/SB/130 (07-09)
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Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Application of
William H. Eby

Application No. 11691377

Filed: March 26,2007

Attorney Docket No. 1421-271

:
:
: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 03-JAN-2012 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/691,377	03/26/2007	William H. Eby	1421-271	5559

32905 7590 01/20/2012

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
01/20/2012	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):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 20 2012

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

In re Application of:
William H. Eby
Serial No.: 11/691,377
Filed: March 26, 2007
Attorney Docket No.: **1421-271**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 16, 2012, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on September 10, 2008, January 14, 2009, August 6, 2009, October 8, 2009, and March 15, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : February 17, 2012

In re Application of :

William Eby

Application No : 11691377

Filed : 26-Mar-2007

Attorney Docket No : 1421-271

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed February 17, 2012

The request is **APPROVED**

The request was signed by Robert J. Jondle (registration no. 33915) on behalf of all attorneys/agents associated with Customer Number 32905 . All attorneys/agents associated with Customer Number 32905 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 26263 .

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	11691377
Filing Date	26-Mar-2007
First Named Inventor	William Eby
Art Unit	1638
Examiner Name	ANNE KUBELIK
Attorney Docket Number	1421-271
Title	SOYBEAN CULTIVAR 6114011

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32905

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: 26263

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Robert J. Jondle/
Name	Robert J. Jondle
Registration Number	33915

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P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington DC 20005

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Hyun Yong Kim :
Application No. 11/691,401 :
Filed: March 26, 2007 :
Attorney Docket No. 58626.00600.UTL1 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 1, 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 Todd M. Schneider on behalf of all attorneys/agents associated with customer number 36183. All attorneys/agents associated with customer number 36183 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: Hyun Yong Kim
449-6 Pyeongchang-Dong
Jongro-Ku, Seoul
Korea

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
11/691,401	03/26/2007	Hyun Yong Kim	58626.00600.UTL1

CONFIRMATION NO. 5597

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

POWER OF ATTORNEY NOTICE

OC000000047066392

Date Mailed: 04/11/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/01/2011.

- 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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SHUMAKER & SIEFFERT PA
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application	:	
Miesel, et al.	:	DECISION ON APPLICATION FOR
Application No. 11/691,413	:	PATENT TERM ADJUSTMENT
Filed: March 26, 2007	:	
Attorney Docket No. 1023-370US02	:	
	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)", filed August 5, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred ninety-three (593) days to six hundred twelve (612) days.

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

On May 17, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred ninety-three (593) days. On August 5, 2011, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is six hundred twelve (612) days.

[1] Applicants filed the application for patent term adjustment prior to the issue fee.

The Office initially determined a patent term adjustment of five hundred ninety-three (593) days based on an adjustment for PTO delay of six hundred fifty-five (655) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by five (5) and eight (8) days of Applicant delay under 37 CFR 1.704(c)(8), and forty-nine (49) days of Applicant delay under 37 CFR 1.704(b). The 49 days of applicant delay is at issue.

Applicants argue that because the Office did not mail the November 2, 2010 Advisory Action within three months of the July 14, 2010 final Office action, then 704(b) delay should be calculated from November 3, 2010 - December 2, 2010 (the date Applicants filed their reply). Applicants cite to MPEP 706.07(f) to support their argument.

Applicants' argument has been considered, but is not persuasive. 37 CFR 1.704(b) is explicit in stating that the period of delay begins on the day after the date that is three months after the date of mailing of the Office communication.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred ninety-three (593)** days (655 days of PTO delay reduced by 62 (5+49+8) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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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QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CALIFORNIA 92121

MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Application of :
Stephen W. **EDGE** :
Application No. 11/691,416 : DECISION ON PETITION
Filed: March 26, 2007 :
Attorney Docket No. 060338 :

This is a decision on the petition under 37 CFR 1.59(b), filed November 23, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that a document WITH EFS ID 8890237, filed November 22, 2010, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 11/691,416 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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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ROBERT L. STEARNS, ESQ.
DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE, SUITE 2000
BLOOMFIELD HILLS MI 48304-2970

MAILED

DEC 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Sellis et al.	:	
Application No. 11/691,541	:	ON PETITION
Filed: March 27, 2007	:	
Attorney Docket No. SY-40018-1/710240-3022	:	

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

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 3632 for processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADE & COMPANY INC.
2157 HENDERSON HIGHWAY
WINNIPEG MB R2G1P-9 CA CANADA

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of :
Dennis Seargeant :
Application No. 11/691,622 : DECISION ON PETITION
Filed: March 27, 2007 :
Attorney Docket No. 84152-202 ADB :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 11, 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 June 12, 2007. A Notice of Abandonment was mailed on December 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) an Oath or Declaration, the $65.00 Surcharge fee, the $82.00 Basic filing fee, the $270.00 Search fee, the $110.00 Examination fee and the $26.00 Excess claim fee; (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN, OK 73536

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Jason D. DYKSTRA
Application No. 11/691,623
Filed: March 27, 2007
Attorney Docket No. **2005-IP-019595U1P1**

: 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 10, 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 5, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 3676 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: **MCDERMOTT WILL & EMERY**
1000 LOUISIANA, SUITE 3900
HOUSTON, TX 77002-5005

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/15/12

TO SPE OF : ART UNIT: 2861.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/691,648 Patent No. 7,961,206

CofC mailroom date 2/10/12

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The Request for Certificate of Correction filed on 02/10/2012 has been approved.

MATTHEW LUU — SPE

2861 — 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

AUG 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Hansen et al.	:	DECISION ON PETITION
Application No. 11/691,662	:	TO WITHDRAW
Filed: March 27, 2007	:	FROM RECORD
Attorney Docket No. P-7386	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 29, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Trent A. Kirk does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Trent A. Kirk not having power of attorney. See MPEP §§ 601.03 and 405.

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 30, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of :
Brahmbhatt et al. :
Application No. 11/691,698 : ON APPLICATION FOR
Filed: 03/27/2007 : PATENT TERM ADJUSTMENT
Atty Docket No. :
060348-0134 :

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 March 25, 2011. Applicants assert that the correct patent term adjustment is 208 days rather than 33 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicant asserts entitlement to the additional patent term adjustment in part on the basis that the patent will issue more than 3 years after the filing date.

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

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

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

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

Applicants disclose that a period of reduction of 63 days for applicant delay should be entered for the filing of an Information Disclosure Statement (IDS) on August 30, 2010, subsequent to the filing of a notice of appeal on June 28, 2010. Applicants are reminded, however, that the filing of an amendment or other paper after filing a notice of appeal is not considered a failure to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(c)(8). Accordingly, no reduction is warranted.

---

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

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Vladimir Aparin :
Application No. 11/691,737 : ON PETITION
Filed: March 27, 2007 :
Attorney Docket No. 061665 :

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**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 17, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. A Notice of Abandonment was mailed May 28, 2010.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2618 for further examination on the merits

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/691,765	03/27/2007	Ulrich Prussner	LINDE-0658	6224

23599 7590 09/22/2010

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER	
PALMER, TIFFANY	
ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
09/22/2010	ELECTRONIC

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

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

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

docketing@mwzb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

Mailed: SEP 2 2 2010

In re application of	:	
Prubner et al.	:	DECISION ON
Serial No. 11/691,765	:	PETITION
Filed: March 27, 2007	:	

For: PROCESS AND DEVICE FOR REGENERATING THE LOADED SCRUBBING AGENT IN A PHYSICAL GAS WASH

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on September 3, 2010 to withdraw the finality of the Office Action mailed August 27, 2010. A Final Rejection was mailed on May 5, 2010, and Applicants replied on August 4, 2010, providing arguments with no amendments to the claims. The rejection of August 27, 2010, introduced a new reference Kobeal et al. which was combined with previously cited references for a rejection under 37 CFR 103.

MPEP 706.07(a) states that a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

A review of the record indicates that the Final Office Action introduces a new reference even though Applicants have not amended any claims.

DECISION

The petition is **GRANTED**.

The finality of the August 27, 2010 Office Action is withdrawn. The period for response will continue run from the mail date of August 27, 2010.

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

I.William Millen
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
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P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Mohanty et al.	:	
Application No. 11/691,787	:	ON PETITION
Filed: March 27, 2007	:	
Attorney Docket No. P25188	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the $1510.00 issue fee and the $300.00 publication fee, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Ming Xu et al.	:	
Application No. 11/691,800	:	NOTICE
Filed: March 27, 2007	:	
Attorney Docket No. **01640568AA**	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Rooyen et al. :
Application No. 11/691,813 :
Filed: March 27, 2007 :
Attorney Docket No. 16132US03 :
Title: ITERATIVE MULTI-STAGE :
DETECTION TECHNIQUE FOR A :
DIVERSITY RECEIVER HAVING :
MULTIPLE ANTENNA ELEMENTS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed July 29, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred twenty-one (821) days, not five hundred eighty (580) 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**.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3

years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

---

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

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

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

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

Anthony Knight
Director
Office of Petitions

---

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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BACOUSTICS, LLC
5929 BAKER ROAD
SUITE 470
MINNETONKA MN 55345

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Eilaz P. Babaev	:	
Application No. 11/691,969	:	DECISION ON PETITION
Filed: March 27, 2007	:	
Title: Ultrasound Wound Care Device	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 final Office action mailed, September 14, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 15, 2010. A Notice of Abandonment was mailed March 22, 2011.

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

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.

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

This matter is being referred to Technology Center AU 3768 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BACOUSTICS, LLC
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SUITE 470
MINNETONKA MN 55345

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
Eilaz P. Babaev :
Application No. 11/692,001 : DECISION ON PETITION
Filed: March 27, 2007 :
Title: Ultrasound Wound Care Method :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 final Office action mailed, September 14, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 15, 2010. A Notice of Abandonment was mailed March 22, 2011.

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

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.

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

This matter is being referred to Technology Center AU 3768 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of :
Alina Deibler :
Application No. 11/692,110 : DECISION ON PETITION
Filed: March 27, 2007 TO WITHDRAW FROM RECORD
Attorney Docket No. GLOSO.001CP1 :
:

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 1, 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 Jason Jardine, on behalf of all attorneys of record who are associated with Customer Number 20995.

All attorneys/agents associated with the Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed June 9, 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: Alina Deibler
c/o Global Solutions and Resources LLC
6714 E. Osborn Road, Suite 1
Scottsdale, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 10 2010

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

In re Application of	:	
Freeman et al.	:	
Application No. 11/692,131	:	ON PETITION
Filed: March 27, 2007	:	
Attorney Docket No. 12845-007-999	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 22, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 23, 2009. A Notice of Abandonment was mailed October 5, 2009.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 3737 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.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA PA 19103

MAILED
JUL 22 2011
OFFICE OF PETITIONS

In re Application of :
Eugene NOVINE :
Application No. 11/692,165 : ON PETITION
Filed: March 27, 2007 :
Attorney Docket No. 2007-121 :

This application has been referred to this office in view of the communication filed July 20, 2011, self-styled as a petition to the Director under 37 CFR 1.181 requesting that the USPTO "prevent" the issuance of an application of another, such that an interference may be declared between that application and the above-captioned instant application. This is also a decision on the petition under 37 CFR 1.182, filed July 20, 2011, requesting expedited consideration of the petition under 37 CFR 1.181.

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

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

Notwithstanding petitioner's third party status with respect to the application of another (no. 11/705,466) petitioner, in essence, asserts that he has standing to request withdrawal of that application from issue under 37 CFR 1.313, or at least deferral of issuance of that application under 37 CFR 1.314. However, petitioner has not shown, nor is it apparent, that petitioner has any standing to assert the relief requested. Rather, the express language of those regulations is directed only to the Office and to the applicant of those applications.[1] Therefore, petitioner has not shown, nor is it apparent, that petitioner may invoke, or request to invoke, this regulation *per se*, or under the aegis of the patent statutes or regulations.

Moreover, a mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). A third party does not have standing to challenge Office decisions regarding patent applications during the prosecution process, including the decision to grant a patent to an applicant during the *ex parte*

[1] See also, MPEP 1308. The MPEP has no binding force on the courts, but it commands notice as an official interpretation of statutes and regulations with which it does not conflict. Syntex v. U.S. Patent and Trademark Office, 882 F.2d 1570, 1571 n.3, 11 USPQ2d 1866, 1867 n.3 (Fed. Cir. 1989).

prosecution process. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989); Hallmark Cards Inc. v. Lehman, 959 F.Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997).

Petitioner's assertion as to "irreparable harm" arising should this application issue as a patent or an interference not now be declared, are merely assertions to that effect. The Patent and Trademark Office will not withdraw another's application from issue based on the inadequate speculative premises of a third party. Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 11, 20 USPQ2d 1920, 1926 (Fed. Cir. 1989). Moreover, such speculation does not confer upon petitioner any standing with respect to the requested disruption of the orderly prosecution and issuance of a patent to the other applicant, as the statutes already provide adequate remedies for petitioner in an infringement action should this application issue in a timely manner. Id.; see also Godtfredsen, supra. There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. Animal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991). A third party has no right to intervene in the prosecution of a particular patent application to prevent its issuance. Id. As such, petitioner lacks standing to request any intervention in the application of another that would prevent the due course issuance of the third party application which is asserted to have been allowed, including withdrawal from issue for consideration of, *inter alia*, a possible interference.

Rather, to the extent that petitioner seeks, in the guise of an *ex parte* petition, to now force an adversary proceeding in another's application, militates away from considering, much less granting, any of the relief(s) requested. Under 37 CFR 41.202, petitioner may request, but cannot demand, an interference. A party does not have a right to an adversary proceeding, including the declaration of an interference, as such is discretionary on the part of the PTO. Doyle v. Brenner, 383 F.2d 210, 154 USPQ 464 (D.D.C. 1967); American International PLC v. Corning Glass Works, 618 F.Supp. 507, 510, 226 USPQ 738, 740 (E.D. Mich 1984).

Note further that an interference may be declared with either a pending application, or with one that has issued as a patent. 35 USC 135(a); 37 CFR 41.203(b)(2). Since an interference may be declared between an application, or a patent arising from that application, petitioner has failed to advance any compelling reason for withdrawing from issue another's application. The statutes and regulations adequately provide for petitioner's requested interference with this case, whether this case is in the form of a pending application, or an issued patent, and, as such, do not afford petitioner any reasonable basis to request that the timely issuance of an application that is asserted to have been allowed, be disturbed.

Further in this regard, to create a right in a third party to challenge a result favorable to another applicant (*i.e.*, petitioner's asserted *ex parte* indication of allowable subject matter to the applicant in another application) would be unprecedented, and such a right cannot be inferred.

Syntex at 1575, 11 USPQ2d at 1870. Accordingly, petitioner's third party request to withdraw another's application from issue, or to otherwise intervene, is dismissed.

Any questions concerning this matter may 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
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DAVID KLEIN
DEKEL PATENT LTD.
BEIT HAROF'IM
18 MENUHA VENAHALA STREET, ROOM 27
REHOVOT IL ISRAEL

MAILED
AUG 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Uri Arnin, et al.	:	
Application No. 11/692,200	:	DECISION ON PETITION
Filed: March 28, 2007	:	
Attorney Docket No. 1380VAS-US-4	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 8, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 8, 2011. Accordingly, the date of abandonment of this application is February 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 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 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

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MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Application of
Arnin, et al.
Application No. 11/692,204
Filed/Deposited: 28 March, 2007
Attorney Docket No. 1380VAS-US-8

DECISION

This is a decision on the petition filed on 23 September, 2011, supplemented with an amendment on 25 September, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

NOTE:

The record (including the petition filed on 23 September, 2011) does not necessitate a finding that the delay between midnight 15 October, 2010 (the date of abandonment), and 22 September, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel David Klein (Reg. No. 41,118) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement 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 final Office action mailed on 15 July, 2010, with reply due absent extension of time on or before 15 October, 2010.

The application went abandoned by operation of law after midnight 15 October, 2010.

The Office mailed the Notice of Abandonment on 14 February, 2011.

On 23 September, 2011, Petitioner filed a petition, with fee, pursuant to 37 C.F.R. §1.137(b) with a reply in the form of a request for continued examination (RCE) and fee and a submission (the latter submitted on 25 September, 2011,) under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and an averment of unintentional delay.

As noted above, the record (including the petition filed on 23 September, 2011) does not necessitate a finding that the delay between midnight 15 October, 2010 (the date of abandonment), and 22 September, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel David Klein (Reg. No. 41,118) when accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

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

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

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). .

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

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

> and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 3733 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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[6] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 08 2010

OFFICE OF PETITIONS

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Patent No. 7,729,978
Issued: June 1, 2010
Application No. 11/692,284
Filed: March 28, 2007
Dkt. No.: 07-268

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

This is a decision on the request filed on June 8, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 153 days.

The petition is **GRANTED to the extent indicated herein.**

The above-identified application issued as U.S. Patent No. 7,729,978 on June 1, 2010. The instant application for patent term adjustment was timely filed June 8, 2010 in accordance with 37 CFR 1.705(d). Patentees contest the reduction of 50 days in connection with the Rule 312 amendment filed April 13, 2010. Patentees assert that the correct period of reduction in this regard is 16 days.

The calculation of adjustment has been carefully reviewed, taking into consideration the arguments presented by patentees. A review of the record reveals that the correct period of adjustment in connection with the Rule 312 amendment filed April 13, 2010 is 17 days, not 50 days. The period of reduction commenced April 13, 2010, the date that the Rule 312 amendment was filed, and ended April 29, 2010, the date that the Office response thereto was mailed. See, § 1.705(c)(10).

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 152 days (169 days per § 1.702(a)(1) – 17 days per § 1.704(c)(10)).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

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

The application is being forwarded to the Certificates of 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 152 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,729,978

DATED : **June 1, 2010** **DRAFT**

INVENTOR(S) : Mintz, 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 119 days

Delete the phrase "by 119 days" and insert – by 152 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9
CANADA

MAILED
SEP 2 1 2010
OFFICE OF PETITIONS

In re Application of	:	
Shuji Sumi	:	
Application No. 11/692326	:	DECISION ON PETITION
Filed: 03/28/2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PAT 3961-2	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 1, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2181 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.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/692,326	03/28/2007	2181	3650	PAT 3961-2	53	8

CONFIRMATION NO. 7381

CORRECTED FILING RECEIPT

26123
BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Date Mailed: 09/20/2010

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)

Shuji SUMI, Kanata, CANADA;

Assignment For Published Patent Application

MOSAID TECHNOLOGIES INCORPORATED, Kanata, ON, CANADA

Power of Attorney: The patent practitioners associated with Customer Number 26123

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/892,712 03/02/2007
and claims benefit of 60/889,572 02/13/2007

Foreign Applications

If Required, Foreign Filing License Granted: 04/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/692,326**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APPARATUS AND METHOD FOR IDENTIFYING DEVICE TYPE OF SERIALLY INTERCONNECTED DEVICES

Preliminary Class

710

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

IBM AUSTIN IPLAW (DG)
C/O DELIZIO GILLIAM, PLLC
15201 MASON ROAD, SUITE 1000-312
CYPRESS TX 77433

In re Application of :
Fasciani et al. :
Application No. 11/692388 :
Filing or 371(c) Date: 03/28/2007 : ON PETITION
Attorney Docket Number: :
FR920050067US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2011, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 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 reply having been received, the application became abandoned on November 10, 2010.

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

The application is being referred to Technology Center Art Unit 2626 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

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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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :
Rapeepat Ratasuk, et al. :
Application No. 11/692,400 : ON PETITION
Filed: March 28, 2007 :
Attorney Docket No. CE16128R :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2011, to revive the above-identified application.

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 5, 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 January 6, 2011. This decision precedes the mailing of a Notice of Abandonment. On May 24, 2011, the present petition was filed.

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

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received May 24, 2011.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OCT 26 2010

OFFICE OF PETITIONS

BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9
CANADA

In re Application of :
Pyeon et al. :
Application No. 11/692,446 : DECISION ON PETITION
Filed: March 28, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PAT 3955-2 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 17, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application set forth in the amendment filed on January 5, 2010. A petition for expedited treatment under 37 CFR 1.182 was filed on October 13, 2010.

The petition under 37 CFR 1.182 is **GRANTED**.
The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Office of Data Management for further processing within the normal course of business.

Chpt Bottff

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/692,446	03/28/2007	2181	4150	PAT 3955-2	59	9

CONFIRMATION NO. 7577

CORRECTED FILING RECEIPT

26123
BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Date Mailed: 10/25/2010

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

Applicant(s)

Hong Beom PYEON, Kanata, CANADA;
HakJune OH, Kanata, CANADA;
Jin-Ki KIM, Kanata, CANADA;
Shuji SUMI, Kanata, CANADA;

Assignment For Published Patent Application

MOSAID TECHNOLOGIES INCORPORATED, Kanata, CANADA

Power of Attorney: The patent practitioners associated with Customer Number 26123

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/889,572 02/13/2007
and claims benefit of 60/868,773 12/06/2006

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/692,446**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APPARATUS AND METHOD FOR PRODUCING IDENTIFIERS REGARDLESS OF MIXED DEVICE TYPE IN A SERIAL INTERCONNECTION

Preliminary Class

710

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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SEP 01 2010

OFFICE OF PETITIONS

BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

In re Application of :
Pyeon et al. :
Application No. 11/692,452 : DECISION ON PETITION
Filed: March 28, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PAT 3838-2 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 28, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2184 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.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/692,452	03/28/2007	2184	3000	PAT 3838-2	52	5

CONFIRMATION NO. 7584

CORRECTED FILING RECEIPT

26123
BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Date Mailed: 08/31/2010

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)

Hong Beom Pyeon, Kanata, CANADA;
HakJune Oh, Kanata, CANADA;
Jin-Ki Kim, Kanata, CANADA;
Shuji Sumi, Kanata, CANADA;

Assignment For Published Patent Application

MOSAID TECHNOLOGIES INCORPORATED, Kanata, CANADA

Power of Attorney: The patent practitioners associated with Customer Number 26123

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/887,401 01/31/2007
and claims benefit of 60/868,773 12/06/2006

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/692,452**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APPARATUS AND METHOD FOR PRODUCING DEVICE IDENTIFIERS FOR SERIALLY INTERCONNECTED DEVICES OF MIXED TYPE

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.

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/692,452	03/28/2007	Hong Beom Pyeon	PAT 3838-2	7584

26123 7590 10/01/2010

BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

EXAMINER	
SHAH, TUSHAR S	
ART UNIT	**PAPER NUMBER**
2184	

NOTIFICATION DATE	DELIVERY MODE
10/01/2010	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):

ipinfo@blgcanada.com

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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

Applicant: Pyeon et al.
Appl. No.: 11/692,452
Filing Date: March 28, 2007
Title: APPARATUS AND METHOD FOR PRODUCING DEVICE IDENTIFIERS FOR SERIALLY INTERCONNECTED DEVICES OF MIXED TYPE
Attorney Docket No.: PAT 3838-2
Pub. No.: US 2008/0181214 A1
Pub. Date: July 31, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on September 17, 2010, for the above-identified application.

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

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

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

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

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

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

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

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

By facsimile: 571-273-8300

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

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

Adjustment date: 10/01/2010 KKING1
09/20/2010 INTEFSW 00001075 501593 11692452
01 FC:1504 300.00 CR

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	11692659
Filing Date	28-Mar-2007
First Named Inventor	Erez Webman
Art Unit	2158
Examiner Name	ANGELICA RUIZ
Attorney Docket Number	112056-0405
Title	ADVANCED CLOCK SYNCHRONIZATION TECHNIQUE

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	/Duane H. Dreger/
Name	Duane H. Dreger
Registration Number	48836

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Decision Date : November 3,2011

In re Application of :

Erez Webman

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11692659

Filed : 28-Mar-2007

Attorney Docket No : 112056-0405

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2158 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	11692735
Filing Date	28-Mar-2007
First Named Inventor	Jens Hegg
Art Unit	3738
Examiner Name	SEEMA SWAMINATHAN
Attorney Docket Number	S63.2-13184-US01
Title	BIFURCATION STENT AND BALLOON ASSEMBLIES

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	/Martha J. Engel/
Name	Martha J. Engel
Registration Number	61534

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : May 20,2011

In re Application of :

Jens Hegg

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11692735

Filed : 28-Mar-2007

Attorney Docket No : S63.2-13184-US01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 20,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 3738 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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JOHN S. BEULICK (17851)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 10/06/2010

Applicant	: Stephen Paul Wassynger	: DECISION ON REQUEST FOR
Patent Number	: 7661924	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/692,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **341** 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.

Commissioner for Patents
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MARK YOUNG, P.A.
12086 FORT CAROLINE ROAD
UNIT 202
JACKSONVILLE FL 32225

MAILED
OCT 18 2011
OFFICE OF PETITIONS

In re Application of :
Molis et al. :
Application No. 11/692,898 : DECISION ON PETITION
Filed: March 28, 2007 :
Attorney Docket No. FM06.001 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 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 above-identified application became abandoned for failure to timely file a reply to the restriction requirement mailed March 13, 2009. The restriction requirement set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 14, 2009. A Notice of Abandonment was mailed on September 24, 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), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

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

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

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37

CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 14, 2009. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Mark Young was counsel at the time of abandonment, an explanation why this application became abandoned while it was under their control and what efforts attorney Young made to reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

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MAY 24 2011

OFFICE OF PETITIONS

LAW OFFICE OF ROBERT M. WALLACE
2112 EASTMAN AVENUE, SUITE 102
VENTURA CA 93003

In re Application of:
Alexander Paterson et al.
Application No. 11/693,089
Filed: March 29, 2007
Attorney Docket No. AM11200/ETCH /MDD

PETITION DECISION

This is a decision on the petition under 37 CFR 1.47(a) filed February 22, 2011 which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.64.

The petition is **dismissed**.

An originally named inventor, Dan Katz, who signed the originally filed declaration, is allegedly refusing to sign the replacement declaration. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration and are not applicable to supplemental oaths or declarations by the originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver or the requirements of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration.

The fee for a petition filed under 37 CFR 1.183 has been charged to petitioner's deposit account.

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).

In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an applicant is unavailable or refuses to sign. Petitioner indicates that the non-signing inventor Katz refuses to sign the replacement declaration.

MPEP 409.03(d) (II) states in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

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. The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Katz. Where inability to find or locate a named inventor(s) is alleged, 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 to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Katz. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s) such as the Internet. The results of such search should be made in any future petition for reconsideration. See MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventor Katz's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Katz's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

For the reasons presented above, the petition is dismissed.

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

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/693,220	03/29/2007	Robert P. Morris	1460/US	8913

49277 7590 02/04/2011

SCENERA RESEARCH, LLC
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Suite 303
Raleigh, NC 27607

EXAMINER	
HUTTON JR, WILLIAM D	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
02/04/2011	PAPER

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

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

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

In re Application of:
MORRIS, Robert
Application No. 11/693,220
Filed: March 29, 2007
For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING FOR AUTOMATICALLY CLOSING APPLICATION WIDGETS BASED ON MARKUP LANGUAGE ELEMENTS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 25, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on January 25, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

Vincent Trans
Quality Assurance Specialist, TC 2100
571-272-3613

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/693,220	03/29/2007	Robert P. Morris	1460/US	8913

49277 7590 06/01/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
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EXAMINER	
SMITH, TIONNA M	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
06/01/2011	PAPER

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

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Alexandria, VA 22313-1450
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SCENERA RESEARCH, LLC
5400 Trinity Road
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Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/693,220
Filed: March 29, 2007
For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING FOR AUTOMATICALLY CLOSING APPLICATION WIDGETS BASED ON MARKUP LANGUAGE ELEMENTS**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 9, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on May 9, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Quality Assurance Specialist, TC 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/693,220	03/29/2007	Robert P. Morris	I460/US	8913

49277 7590 12/22/2011

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EXAMINER	
SMITH, TIONNA M	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
12/22/2011	PAPER

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

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

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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/693,220
Filed: March 29, 2007
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING FOR AUTOMATICALLY CLOSING APPLICATION WIDETS BASED ON MARKUP LANGUAGE ELEMENTS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 21 December 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 21 December 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/693,220	03/29/2007	Robert P. Morris	1460/US	8913

49277 7590 03/29/2012

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EXAMINER	
SMITH, TIONNA M	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
03/29/2012	PAPER

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

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

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Alexandria, VA 22313-1450
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Theodosios Thomas
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5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/693,220
Filed: March 29, 2007
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING FOR AUTOMATICALLY CLOSING APPLICATION WIDETS BASED ON MARKUP LANGUAGE ELEMENTS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY UT 84101

MAILED
JUN 01 2011
OFFICE OF PETITIONS

In re Application of :
Chi-mou Chao et al. :
Application No. 11/693,243 : DECISION ON PETITION
Filed: March 29, 2007 :
Attorney Docket No. 3557.2.81 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed June 24, 2010, which set a shortened statutory period for reply of one (1) month or (30) thirty days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 25, 2010. A Notice of Abandonment was mailed on May 10, 2011.

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

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

This application is being referred to Technology Center AU 2627 for appropriate action by the Examiner in the normal course of business on the reply received May 3, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,809,841	:	DECISION ON
Neil P. Crouch	:	PATENT TERM ADJUSTMENT
Issue Date: October 5, 2010	:	AND NOTICE OF INTENT
Application No. 11/693,312	:	TO ISSUE
Filed: March 29, 2007	:	CERTIFICATE OF
Attorney Docket No. 07-275	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT OR IN THE ALTERNATIVE A PETITION UNDER 37 C.F.R. § 1.183", filed December 6, 2010. Patentees request that the patent term adjustment indicated on the patent be corrected from three hundred sixty-five (365) days to four hundred thirteen (413) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **four hundred thirteen (413)** days.

On October 5, 2010, the above-identified application matured into U.S. Patent No. 7,809,841. Patentee timely filed an application for patent term adjustment under 37 CFR 1.705(d) on December 6, 2010 (December 5, 2010 fell on a Sunday). Patentee asserts that he should not have been assessed applicant delay of sixty-four(64) days for the submission of a Rule 312 Amendment and ADS on August 3, 2010, after the Notice of Allowance was

mailed on May 17, 2010. Rather, Patentees assert that they should have only been assessed applicant delay of sixteen (16) days.

37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the... paper". Here, Applicant filed the Rule 312 Amendment and ADS on August 3, 2010, and the Office mailed a "Response to Rule 312 Communication" on August 18, 2010. Accordingly, Applicants should only have been assessed 16 days of delay for the filing of the Rule 312 Amendment and ADS, not 64 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is four hundred thirteen (413) days (429 (405+29) days of PTO delay, reduced by 16 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **four hundred thirteen (413)** days subject to any disclaimers.

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

Anthony Knight
Director
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,809,841 B2

DATED : **October 5, 2010**

INVENTOR(S) : Crouch

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 365 days.

Delete the phrase "by 365 days" and insert – by 413 days--

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Matheson Keys Garsson & Kordzik PLLC
7004 Bee Cave Rd.
Bldg. 1, Suite 110
Austin TX 78746

MAILED

JAN 30 2012

OFFICE OF PETITIONS

In re Application :
Mao, et al. :
Application No. 11/693,454 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: March 29, 2007 :
Dkt. No.: 21545-161001 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed December 19, 2011.

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

Applicants submit that the correct patent term adjustment to be indicated on the patent is 797 days, not 700 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants contest the reduction of 97 days in connection with the information disclosure statement (IDS) filed August 20, 2009. In this regard, applicants assert that "[t]he IDS filed on August 20, 2009 included only art cited in a communication from a patent office in a counterpart foreign application which was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the information disclosure statement. The document filed in that IDS was cited by the European Patent Office on August 5, 2009, which is less than the 30 days allowed under the rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Information Disclosure Statements,* released at 76 FR 74700 published on December 1, 2011."

Applicants' arguments have been carefully reviewed, but are not found persuasive. A review of the record reveals that the statement included with the IDS filed August 20, 2009 failed to comply with the requirements of 37 CFR 1.704(d)(1).

In this regard, 37 CFR 1.704(d) was amended December 1, 2011 to state as follows:

> **§ 1.704 Reduction of period of adjustment of patent term**
>
> (d)(1) 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**:

(i) Was first cited in any communication from a patent office in a counterpart foreign or international application or from the Office, and 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; or

(ii) Is a communication that was issued by a patent office in a counterpart foreign or international application or by the Office, and 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.

(2) The thirty-day period set forth in paragraph (d)(1) of this section is not extendable.

(Emphasis added.)

The IDS filed August 20, 2009 does not comply with statement requirements set forth at 37 CFR 1.704(d)(1). Accordingly, the IDS filed August 20, 2009 was properly deemed a failure to engage in reasonable efforts to concluded prosecution or processing within the meaning of 37 CFR 1.704(c)(8).

In view thereof, no adjustment to the patent term set forth in the Notice of Allowance will be made.

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).

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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MOSSMAN, KUMAR AND TYLER, PC
P.O. BOX 421239
HOUSTON, TX 77242

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Application of
Sven Krueger, et al.
Application No. 11/693,574
Filed: March 29, 2007
Attorney Docket No.: DRL4-41982-US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 4, 2012.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2012, as required by the Notice of Allowance and Fee(s) Due mailed October 3, 2011. On January 4, 2012, the present petition was filed. A Notice of Abandonment was subsequently mailed on January 11, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,740 issue fee and $300 publication fee; (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,818,343 :
Issue Date: October 19, 2010 :
Application No. 11/693,582 : ON PETITION
Filed: March 29, 2007 :
Attorney Docket No. TM06-048US/TRND-P036 :

This is a decision on the petition filed January 20, 2011, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by the required fee of $130, and a statement as required as set forth in § 3.11. Petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

It should also be noted that the assignee information of record is Trend Micro Incorporated, Yoyogi, Shibuya-Ku, Japan.

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

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IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170

MAILED

AUG 11 2011

OFFICE OF PETITIONS

Patent No. 7,818,343 :
Issue Date: October 19, 2010 :
Application No. 11/693,582 : ON PETITION
Filed: March 29, 2007 :
Attorney Docket No. TM06-048US/TRND-P036 :

This is a decision on the renewed petition filed July 7, 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

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APR 14 2011

OFFICE OF PETITIONS

SCHWEGMAN LUNDBERG & WOESSNER PA
PO BOX 2938
MINNEAPOLIS MN 55402

In re Application of :
Bryan Farney :
Application No. 11/693,622 : DECISION ON PETITION
Filed: March 29, 2007 :
Attorney Docket No. 2567.001US1 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 15, 2011.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the final Office action mailed May 19, 2010. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on February 28, 2011.

A review of the application file reveals the presence of a Notice of Appeal, filed on November 19, 2010. A review of Office finance records confirms that the Office received the fee for the three month extension of time and the Notice of Appeal on that same day. As a result, the Notice of Appeal should have been entered. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

Receipt of the RCE and the accompanying fee, filed with the instant petition, is acknowledged.

The application is being forwarded to Group Art Unit 3625 for consideration of the RCE, filed March 15, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
GERTNER, Michael et al. :
Application No. 11/693,630 : DECISION ON PETITION
Filed: March 29, 2007 : TO WITHDRAW
Attorney Docket No. MINIM.002C4 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2011.

The request is **APPROVED**.

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

The request was signed by G. Peter Albert, Jr. on behalf of all attorneys of record who are associated with customer No. 20995. All attorneys/agents associated with the Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Michael Gertner at the address indicated below.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MICHAEL E. GERTNER, M.D.**
P.O. BOX P
MENLO PARK CA 94026

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.
11/693,645	03/29/2007	Glenn N. Caplin	06-1004	9626

63759 7590 03/13/2012

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER	
MICHENER, JOSHUA J	
ART UNIT	PAPER NUMBER
3644	

NOTIFICATION DATE	DELIVERY MODE
03/13/2012	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):

ptonotifs@yeeiplaw.com
mgamez@yeeiplaw.com

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MAR 1 3 2012

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

In re Application of: CAPLIN et al.	:	DECISION ON PETITION
Application No.: 11/693,645	:	FILED UNDER 37 CFR 1.181
Filed: March 29, 2007	:	
For: SATELLITES AND SATELLITE FLEET IMPLEMENTATION METHODS AND APPARATUS	:	

This is in response to applicants' petition filed under 37 CFR 1.181 on March 26, 2010 for supervisory review of the notice of non-compliant amendment mailed January 26, 2010.

The petition is DISMISSED as Moot.

A review of the record shows that a non-final Office action was mailed on July 1, 2009 in which claims 1-14 were rejected under 35 USC 112 second paragraphs, and over various combination of prior art. Also included in this Office action was a requirement for information under 37 CFR 1.105.

Applicants filed a response on October 30, 3009, then an information disclosure statement on December 18, 2009.

A notice of non-compliant amendment was mailed on January 26, 2010 in which the examiner held the October 30, 2009 reply non-responsive to the July 1, 2009 Office action on the grounds that because applicants failed to directly answered the questions raised in the requirement for information under 37 CFR 1.105, this rendered the response of October 30, 2009 ambiguous.

Applicants filed a supplemental response on February 26, 2010 to overcome the notice of non-compliant amendment.

Subsequently, applicants filed the instant petition on March 26, 2010. Applicants argued in the petition that the examiner's Interrogatories set forth in the requirement for information under 37 CFR 1.105 were overly broad and not in line with the guidance set forth in 37 CFR 1.105

and in the Manual of Patent Examining Procedure. Applicants sought clarification of the reasonableness of the search obligation in the responses filed on October 30, 2009. In addition, applicants requested guidance if the October 30, 2009 response is not accepted.

A final Office action was mailed on August 24, 2010.

A request for continued examination (RCE) was filed along with an amendment on November 24, 2010.

A notice of allowance was mailed on December 28, 2010, and the application subsequently issued as a U.S. patent.

In light of the fact that the above-identified application issued as a U.S. patent, the matter concerning the propriety of the non-compliant amendment mailed on January 26, 2010 has been rendered moot.

Any question concerning this decision should be referred to SPE Timothy Collins at 571-272-6886.

Katherine Matecki

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

KM/TDC: 2/28/2012
LM

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MAILED

AUG 13 2010

OFFICE OF PETITIONS

AEON LAW
1525 4TH AVE., STE 800
SEATTLE WA 98101-1648

In re Application of	:	
Maria GAOS, et al	:	
Application No. 11/693,666	:	DECISION ON PETITION
Filed: March 29, 2007	:	TO WITHDRAW
Attorney Docket No. GAOS-2007017	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 13, 2010.

The request is **NOT APPROVED.**

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

The request cannot be approved because it is not clear to the Office as to whether the certifications noted above at items 2 and 3 have been performed.

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

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

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

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AEON LAW
1525 4TH AVE., STE 800
SEATTLE WA 98101-1648

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Maria GAOS, et al	:	
Application No. 11/693,666	:	DECISION ON PETITION
Filed: March 29, 2007	:	TO WITHDRAW
Attorney Docket No. GAOS-2007017	:	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 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 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 Adam L.K. Philipp on behalf of the attorneys of record associated with Customer No. 46345.

The attorneys of record associated with Customer No. 46345 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.

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MARIA GAOS
22104 4TH PI W
BOTHELL WA 98021

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
11/693,666	03/29/2007	Maria Gaos	GAOS-2007017

CONFIRMATION NO. 9659

46345
AEON LAW
1525 4TH AVE, STE 800
SEATTLE, WA 98101-1648

POWER OF ATTORNEY NOTICE

Date Mailed: 09/16/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/25/2010.

- 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.

/dcgoodwyn/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-5-11 Paper No.: _____

TO SPE OF : ART UNIT 2156

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/852,724 Patent No.: 7969446

CofC mailroom date: 9-29-11

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

FOR IFW FILES: Check Figs.

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

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

FOR PAPER FILES:

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

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

Chris Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Bunsi Das 2156
SPE **Art Unit**

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Patent No. 7,512,005	:	
Issue Date: March 31, 2009	:	
Application No. 11/693,769	:	DECISION ON PETITION
Filed: March 30, 2007	:	
Attorney Docket No. 4146.04US01	:	

This is a decision on the petition under 37 CFR 1.182, filed December 15, 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 Terri Johnson at (571) 272-2991. 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.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : February 4, 2011

TO SPE OF : ART UNIT 3767
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/693795 patent no 7780630

CofC mailroom date: 01-28-10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

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

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

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

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

Comments: _____

/Kevin C.Sirmons\ 3767

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/693,868	03/30/2007	KEIICHI TAKASHIMA	00862.122861.	1027

5514 7590 08/10/2010

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

EXAMINER	
COLES, EDWARD L	

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
08/10/2010	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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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

In re Application of
TAKASHIMA, KEIICHI
Application No. 11/693,868
Filed: March 30, 2007
Attorney Docket No. **00862.122861**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed May 26, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

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

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

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

2.4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOLME ROBERTS & OWEN LLP-CLIENT-1
1700 LINCOLN STREET, SUITE 4100
DENVER, CO 80203

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Hall, David R. et al.	:	
Application No. 11/693,909	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: March 30, 2007	:	
Attorney Docket No. **55724-10801**	:	

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

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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JOSEPH R. BAKER, APC
GAVRILOVICH, DODD & LINSEY LLP
4660 LA JOLLA VILLAGE DRIVE, SUITE 750
SAN DIEGO CA 92122

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
Nazneen DEWJI, et al :
Application No. 11/693,926 : DECISION ON PETITION
Filed: March 30, 2007 :
Attorney Docket No. 00015-027001/SD2006-152-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply as required by the Notice to File Corrected Application Papers, mailed June 8, 2010, which set a period for reply of two (2) months. Accordingly, the application became abandoned on August 9, 2010.

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

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

All other inquiries should be directed to the Office of Data Management at (571) 272-4000.

The application is being referred to the Office of Data Management for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/694,074	03/30/2007	James E. Adams JR.	93641RLO	1361

7590 09/07/2010

Frank Pincelli
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

EXAMINER	
ALAVI, AMIR	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/07/2010	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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Frank Pincelli
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

MAIL

SEP 07 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Adams, James E. Jr., *et al.* :
Application No. 11/694,074 :
Filed: March 30, 2007 :
Attorney Docket No. 93641RLO :

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 C.F.R. §1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 C.F.R. §1.313.

The above-identified application is hereby withdrawn from issue.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and 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.

Telephone inquiries should be directed to Vikkram Bali at 571-272-7415.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

CC: Office of Publications:

Patent Clerk, Randolph Square, Room 09D30-B
Supervisory Correspondence Clerk, Randolph Square, 09D33

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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www.uspto.gov

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

Mail Date: 08/03/2010

Applicant	: Lee D. Whetsel	: DECISION ON REQUEST FOR
Patent Number	: 7657790	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/694,115	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **364** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BABCOCK & WILCOX POWER GENERATION GROUP, INC.
PATENT DEPARTMENT
20 SOUTH VAN BUREN AVENUE
BARBERTON OH 44203

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of :
Wessel :
Application No. 11/694,125 :
Filed: March 30, 2007 :
Attorney Docket No. Case 7145 :
For: RECOVERY BOILER COMBUSTION AIR SYSTEM WITH INTERMEDIATE AIR PORTS VERTICALLY ALIGNED WITH MULTIPLE LEVELS OF TERTIARY AIR PORTS

ON PETITION

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

The petition is **dismissed** and the merits of the petition will not be addressed because the petition is not signed. No additional petition fee will be due when petitioner files a reconsideration petition.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

In any reconsideration petition, applicant is encouraged to file another copy of the petition properly signed.

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 concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BABCOCK & WILCOX POWER GENERATION GROUP, INC.
PATENT DEPARTMENT
20 SOUTH VAN BUREN AVENUE
BARBERTON OH 44203

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
Wessel :
Application No. 11/694,125 : ON PETITION
Filed: March 30, 2007 :
Attorney Docket No. Case 7145 :
For: RECOVERY BOILER COMBUSTION AIR SYSTEM WITH INTERMEDIATE AIR PORTS VERTICALLY ALIGNED WITH MULTIPLE LEVELS OF TERTIARY AIR PORTS

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the November 2, 2010 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on February 3, 2011. A Notice of Abandonment was mailed on June 13, 2011.

Applicant has submitted an amendment in reply to the November 2, 2010 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 2, 2010 non-final Office action, and the $1,620.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center G.A.U. 3743 for consideration of the amendment filed on June 13, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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VIDAS, ARRETT & STEINKRAUS, PA
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Stig Gopel
Application No. 11/694,185
Filed: March 30, 2007
Attorney Docket No. H01.2-13545-US01

NOTICE

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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BERESKIN AND PARR LLP/S.E.N.C.R.I., S.R.L.
40 KING STREET WEST
BOX 401
TORONTO ON MSH 3Y2 CA CANADA

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re Application of :
Francis Cardollfe :
Application No. 11/694,317 : NOTICE
Filed: March 30, 2007 :
Attorney Docket No. SB 15816-2 :

This is in response to the paper filed October 18, 2011 for Correction of Entity Status under 37 CFR 1.27(c).

Applicant filed the above and states that "We confirm that the applicant was always a small entity and that the change of status was caused by an inadvertent error made in the Issue Fee Transmittal Form when it was submitted."

In view of the above, small entity status has been accorded.

Inquiries relating to this matter may be directed to Karen Creasy at (571) 272-3208).

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RIM/FINNEGAN
901 New York Avenue NW
Washington DC 20001

MAILED

JAN 18 2012

OFFICE OF PETITIONS

In re Application of :
FUX et al. :
Application No. 11/694,361 : DECISION ON PETITIONS
Filed: 03/30/2007 :
Attorney Docket No. 11298.0117-00000 :

This is a decision on the petition under 37 CFR 1.48(a) filed December 28, 2011, requesting correction of inventorship to add an inventor. This is also a decision on the petition under 37 CFR 1.183 file December 28, 2011, requesting waiver of 37 CFR 1.48(a)(2) requiring each actual inventor to sign the declaration.

The petitions under 37 CFR 1.48(a) and 37 CFR 1.183 are **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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.48(a) and 37 CFR 1.183."

On March 30, 2007, applicants filed the above-identified application. On May 9, 2007, applicants filed a declaration naming Vadim Fux and Shannon Ralph White as joint inventors. Inventors Fux and White executed the declaration. On December 28, 2011, applicants submitted a petition under 37 CFR 1.48(a) (and fee) to correct the inventorship to add David Paul Yach as a joint inventor. Additionally, applicants filed a petition under 37 CFR 1.183 (and fee) requesting waiver of the requirement that each actual inventor sign the declaration.

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a request including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks item (2) in that one of the named inventors, Shannon Ralph White, has not signed the declaration. As applicants have filed a petition under 37 CFR 1.183 to waive the requirement that inventor White reexecute the declaration, this issue is discussed in detail *infra.*

Petition Under 37 CFR 1.183

Applicants request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) that each actual inventor sign the declaration. Applicants assert that they made diligent efforts to contact originally named inventor, Shannon Ralph White, including sending multiple letters to his last known address; however, they were unable to reach him to reexecute the declaration.

Applicants' argument has been considered, but is not persuasive. 37 CFR 1.183 permits the Director or the Director's designees to waive a rule when extraordinary circumstances exist and justice requires waiver of the rule. Applicants have not shown the existence of any extraordinary circumstances where justice requires waiver of 37 CFR 1.48(a)(2) requiring execution of the declaration by all of the actual inventors.

It is noted that applicants may request waiver of 37 CFR 1.48(a)(2) where the originally named inventor was given the opportunity to reexecute the declaration but either refused to sign the declaration or could not be located. See MPEP 201.03(B). 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 a petition under 37 CFR 1.183. See MPEP 409.03(d)).

Where inability to find or locate a named inventor is alleged, 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 to locate the inventor. A person having firsthand knowledge of the facts must sign the statement of facts, where at all possible. If attempts to obtain a forwarding address and to locate the non-signing inventor by means such as a telephone directory or the Internet continue to fail, then applicants will have provided the necessary proof that the inventor cannot be reached. Applicants should submit documentary evidence such as the result of a telephone directory or Internet search to support the conclusion that the inventor cannot be located or that he refused to reexecute the declaration.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a

written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration. Whenever a non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration. When it is concluded by applicants that the non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. Applicants should mail a copy of the declaration to inventor White, accompanied by a cover letter of instructions, setting forth a deadline or a statement that no response will constitute a refusal. This lends support to a finding of refusal by conduct. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

In view of the above, it is agreed that justice would not be served at this time by waiving the requirement for White's signature on the declaration.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Correspondence may also be submitted electronically via the Electronic Filing System.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RIM/FINNEGAN
901 New York Avenue NW
Washington DC 20001

MAILED
JAN 26 2012
OFFICE OF PETITIONS

In re Application of :
FUX et al. :
Application No. 11/694,361 : DECISION ON PETITIONS
Filed: 03/30/2007 :
Attorney Docket No. 11298.0117-00000 :

This is a decision on the renewed petition under 37 CFR 1.48(a) filed January 24, 2012, requesting correction of inventorship to add an inventor. This is also a decision on the renewed petition under 37 CFR 1.183 filed January 24, 2012, requesting waiver of 37 CFR 1.48(a)(2) requiring each actual inventor to sign the declaration.

The petitions under 37 CFR 1.183 and 37 CFR 1.48(a) are **GRANTED**.

On March 30, 2007, applicants filed the above-identified application. On May 9, 2007, applicants filed a declaration naming Vadim Fux and Shannon Ralph White as joint inventors. Inventors Fux and White executed the declaration. On December 28, 2011, applicants submitted a petition under 37 CFR 1.48(a) (and fee) to correct the inventorship to add David Paul Yach as a joint inventor. Additionally, applicants filed a petition under 37 CFR 1.183 (and fee) requesting waiver of the requirement that each actual inventor sign the declaration. The petitions were dismissed by the decision mailed January 18, 2012. On January 24, 2012, applicants submitted the present request for reconsideration.

Petition Under 37 CFR 1.183

Applicants request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) that each actual inventor sign the declaration. Applicants assert that they made diligent efforts to contact originally named inventor, Shannon Ralph White, including sending multiple letters to his last known address; however, they were unable to reach him to reexecute the declaration. Furthermore, applicants note that Research In Motion Limited, the assignee of the entire right, title and interest, has given its consent to the requested correction pursuant to MPEP 201.03(II)(B). A Consent of Assignee and Statement under 37 CFR 3.73(b) accompanied the original petition.

In view of the facts presented on petition, it is agreed that justice would be served by waiving the requirement that Shannon Ralph White reexecute the declaration. Accordingly, the petition under 37 CFR 1.183 is **granted**.

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a request including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Applicants have meet the requirements under 37 CFR 1.48(a). Specifically, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship. Accordingly, the petition under 37 CFR 1.48(a) is **granted**. The inventorship of this application has been changed by adding David Paul Yach as a joint inventor. The Office records have been corrected to reflect the inventorship. A corrected filing receipt accompanies this decision.

This matter is being referred to Technology Center Art Unit 2176.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/694,361	03/30/2007	2177	1130	11298.0117-00000	8	2

CONFIRMATION NO. 1836

93377
RIM/FINNEGAN
901 New York Avenue NW
Washington, DC 20001

CORRECTED FILING RECEIPT

OC000000052175939

Date Mailed: 01/25/2012

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)

Vadim Fux, Waterloo, CANADA;
Shannon Ralph White, Waterloo, CANADA;
David Paul Yach, Waterloo, ON, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 93377

Domestic Priority data as claimed by applicant

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

If Required, Foreign Filing License Granted: 04/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/694,361**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Spell Check Function Having a Character Replacement Spell Check Algorithm That Applies a Preference Based Upon Proximity of the Characters Replacing One Another, and Associated Handheld Electronic Device

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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WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Soong et al.	:	DECISION NOTING PETITION
Application No. 11/694,375	:	UNDER 37 CFR 1.47(a)
Filed: March 30, 2007	:	
Attorney Docket No. 319162.01	:	

This is in response to the petition under 37 CFR 1.182, and, alternatively, 37 CFR 1.183, filed September 23, 2011.

The petition is **DISMISSED AS MOOT.**

The provisions of 37 CFR 1.182 state:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing.

The provisions of 37 CFR 1.183 state:

> In an extraordinary situation, when justice re-quires, 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).

The provisions of 37 CFR 1.132 state:

> When any claim of an application or a patent under reexamination is rejected or objected to, any evidence submitted to traverse the rejection or objection on a basis not otherwise provided for must be by way of an oath or declaration under this section.

Petitioners herein request "to have the rule requiring all inventors to sign the § 132 Affidavit suspended, and to have the attached Affidavit signed by Frank Soong, admitted and deemed sufficient to overcome the Duet al. article."

The provisions of 37 CFR 1.132 do not impose a signature requirement. In contrast, 37 CFR 1.131(a) specifies such requirement and sets forth how to proceed when an inventor cannot be reached or refuses to sign a declaration under 37 CFR 1.131. See, also, MPEP 715.04. A declaration under 37 CFR 1.132 is to be reviewed by the Primary Examiner assigned to the application and that Examiner shall determine if the declaration, properly signed or not, overcomes a rejection. Petitioners seek waiver of a signature requirement which is not imposed by the rules. Thus, the relief sought is not warranted and the petition is dismissed as moot.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205. Inquiries regarding the examination of the above noted application should be directed to Technology Center Art Unit 2626.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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MORRLSTOWN, NJ 07962

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SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of :
Andrew G. BEREZOWSKI, et *al.* :
Application No. 11/694,383 : DECISION GRANTING PETITION
Filed: March 30, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
H0005497/8364/90587D/1251

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 16, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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) 272-7253.

This application is being referred to Technology Center AU 2612 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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901 New York Avenue NW
Washington DC 20001

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Application of :
FUX et al. :
Application No. 11/694,413 : DECISION ON PETITIONS
Filed: 03/30/2007 :
Attorney Docket No. 11298.0118-00000 :

This is a decision on the petition under 37 CFR 1.48(a) filed December 28, 2011, requesting correction of inventorship to add an inventor. This is also a decision on the petition under 37 CFR 1.183 file December 28, 2011, requesting waiver of 37 CFR 1.48(a)(2) requiring each actual inventor to sign the declaration.

The petitions under 37 CFR 1.48(a) and 37 CFR 1.183 are **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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.48(a) and 37 CFR 1.183."

On March 30, 2007, applicants filed the above-identified application. On May 9, 2007, applicants filed a declaration naming Vadim Fux and Shannon Ralph White as joint inventors. Inventors Fux and White executed the declaration. On December 28, 2011, applicants submitted a petition under 37 CFR 1.48(a) (and fee) to correct the inventorship to add David Paul Yach as a joint inventor. Additionally, applicants filed a petition under 37 CFR 1.183 (and fee) requesting waiver of the requirement that each actual inventor sign the declaration.

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a request including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks item (2) in that one of the named inventors, Shannon Ralph White, has not signed the declaration. As applicants have filed a petition under 37 CFR 1.183 to waive the requirement that inventor White reexecute the declaration, this issue is discussed in detail *infra.*

Petition Under 37 CFR 1.183

Applicants request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) that each actual inventor sign the declaration. Applicants assert that they made diligent efforts to contact originally named inventor, Shannon Ralph White, including sending multiple letters to his last known address; however, they were unable to reach him to reexecute the declaration.

Applicants' argument has been considered, but is not persuasive. 37 CFR 1.183 permits the Director or the Director's designees to waive a rule when extraordinary circumstances exist and justice requires waiver of the rule. Applicants have not shown the existence of any extraordinary circumstances where justice requires waiver of 37 CFR 1.48(a)(2) requiring execution of the declaration by all of the actual inventors.

It is noted that applicants may request waiver of 37 CFR 1.48(a)(2) where the originally named inventor was given the opportunity to reexecute the declaration but either refused to sign the declaration or could not be located. See MPEP 201.03(B). 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 a petition under 37 CFR 1.183. See MPEP 409.03(d)).

Where inability to find or locate a named inventor is alleged, 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 to locate the inventor. A person having firsthand knowledge of the facts must sign the statement of facts, where at all possible. If attempts to obtain a forwarding address and to locate the non-signing inventor by means such as a telephone directory or the Internet continue to fail, then applicants will have provided the necessary proof that the inventor cannot be reached. Applicants should submit documentary evidence such as the result of a telephone directory or Internet search to support the conclusion that the inventor cannot be located or that he refused to reexecute the declaration.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a

written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration. Whenever a non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration. When it is concluded by applicants that the non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. Applicants should mail a copy of the declaration to inventor White, accompanied by a cover letter of instructions, setting forth a deadline or a statement that no response will constitute a refusal. This lends support to a finding of refusal by conduct. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

In view of the above, it is agreed that justice would not be served at this time by waiving the requirement for White's signature on the declaration.

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

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

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

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

Correspondence may also be submitted electronically via the Electronic Filing System.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JAN 26 2012
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In re Application of :
FUX et al. :
Application No. 11/694,413 : DECISION ON PETITIONS
Filed: 03/30/2007 :
Attorney Docket No. 11298.0118-00000 :

This is a decision on the renewed petition under 37 CFR 1.48(a) filed January 24, 2012, requesting correction of inventorship to add an inventor. This is also a decision on the renewed petition under 37 CFR 1.183 filed January 24, 2012, requesting waiver of 37 CFR 1.48(a)(2) requiring each actual inventor to sign the declaration.

The petitions under 37 CFR 1.183 and 37 CFR 1.48(a) are **GRANTED**.

On March 30, 2007, applicants filed the above-identified application. On May 9, 2007, applicants filed a declaration naming Vadim Fux and Shannon Ralph White as joint inventors. Inventors Fux and White executed the declaration. On December 28, 2011, applicants submitted a petition under 37 CFR 1.48(a) (and fee) to correct the inventorship to add David Paul Yach as a joint inventor. Additionally, applicants filed a petition under 37 CFR 1.183 (and fee) requesting waiver of the requirement that each actual inventor sign the declaration. The petitions were dismissed by the decision mailed January 18, 2012. On January 24, 2012, applicants submitted the present request for reconsideration.

Petition Under 37 CFR 1.183

Applicants request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) that each actual inventor sign the declaration. Applicants assert that they made diligent efforts to contact originally named inventor, Shannon Ralph White, including sending multiple letters to his last known address; however, they were unable to reach him to reexecute the declaration. Furthermore, applicants note that Research In Motion Limited, the assignee of the entire right, title and interest, has given its consent to the requested correction pursuant to MPEP 201.03(II)(B). A Consent of Assignee and Statement under 37 CFR 3.73(b) accompanied the original petition.

In view of the facts presented on petition, it is agreed that justice would be served by waiving the requirement that Shannon Ralph White reexecute the declaration. Accordingly, the petition under 37 CFR 1.183 is **granted**.

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a request including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Applicants have meet the requirements under 37 CFR 1.48(a). Specifically, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship. Accordingly, the petition under 37 CFR 1.48(a) is **granted**. The inventorship of this application has been changed by adding David Paul Yach as a joint inventor. The Office records have been corrected to reflect the inventorship. A corrected filing receipt accompanies this decision.

This matter is being referred to Technology Center Art Unit 2176.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/694,413	03/30/2007	2176	1130	11298.0118-00000	4	2

CONFIRMATION NO. 1915

CORRECTED FILING RECEIPT

93377
RIM/FINNEGAN
901 New York Avenue NW
Washington, DC 20001

Date Mailed: 01/25/2012

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)

Vadim Fux, Waterloo, CANADA;
Shannon Ralph White, Waterloo, CANADA;
David Paul Yach, Waterloo, ON, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 93377

Domestic Priority data as claimed by applicant

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

If Required, Foreign Filing License Granted: 04/18/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/694,413**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Spell Check Function That Applies a Preference to a Spell Check Algorithm Based Upon Extensive User Selection of Spell Check Results Generated by the Algorithm, and Associated Handheld Electronic Device

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.

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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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MINNEAPOLIS MN 55440-1022

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APR 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,873,621
Issued: January 18, 2011
Application No. 11/694,434
Filed: March 30, 2007
Attorney Docket No. 16113-0367001

: 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 March 16, 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 220 to 351 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 fifty-one (351) days is **DISMISSED**.

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.

As a request for continued examination (RCE) was filed in this application, prior to the three-year pendency date, patentees are not entitled to an additional period of patent term adjustment pursuant to 1.702(b). The "B" delay period does not include any time consumed by continued examination under 132(b). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the filing of a RCE cuts off the ability to accumulate any additional patent term adjustment under the three-year pendency provision (but does not otherwise affect patent term adjustment). In this instance, an RCE was filed on November 13, 2009, prior to the three-year pendency date of March 30, 2010. As such, patentees did not accrue any time for over-three year pendency.

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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JUN 23 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,873,621
Issued: January 18, 2011
Application No. 11/694,434
Filed: March 30, 2007
Attorney Docket No. 16113-0367001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on May 11, 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 220 to 351 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On March 30, 2007, the above-identified application matured into U.S. Patent No. 7,873,621, with a revised patent term adjustment of 220 days. On May 11, 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 351. 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 September 10, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 131 day period from September 10, 2010 (the mailing date of the Notice of Allowance) until January 18, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 131 days and be increased from 220 to 351 days. Patentee concludes that the correct patent term adjustment is 351 days (the sum of 283 days of "A delay" and 131 days of "B delay" minus 63 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C.

111(a) on March 30, 2007 and the patent not having issued as of the day after the three year date, March 30, 2010, and a request for continued examination under 132(b) having been filed on November 13, 2009. In other words, the 131-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

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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.

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 13, 2009, and the patent issued by virtue of that request on January 18, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on November 13, 2009 and ending on January 18, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 220 days indicated on the patent is correct.

The Office acknowledges the previous 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,714,367 B2
Ser. No. : 11/694,467
Inventor(s) : Fujikawa et al.
Issued : May 11, 2010
Title : SEMICONDUCTOR DEVICE AND MANUFACTURING METHOD THEREOF
Docket No. : 12732-0281002
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Heidari et al.	:	
Application No. 11/694474	:	DECISION ON PETITION
Filing or 371(c) Date: 03/30/2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. PAT 3639-2	:	

This is a decision on the petition under 37 CFR 1.55(c), filed July 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Tiawan Application No. 091123874, filed October 17, 2002.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

With regard to item (2), the supplemental ADS filed with the present petition is improper because it is not signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Before the petition may be granted, a renewed petition and either an Application Data Sheet or a supplemental oath or declaration to correct the above matters are required.

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

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

By hand:
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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 Derek L. Woods at (571) 272-3232.

Christopher Bottorff
Supervisor
Office of Petitions

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MAILED

APR 18 2011

OFFICE OF PETITIONS

BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

In re Application of	:	
Heidari et al.	:	
Application No. 11/694474	:	DECISION ON PETITION
Filing or 371(c) Date: 03/30/2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. PAT 3639-2	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed April 1, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Canadian Application No. 2,571,385, filed December 18, 2006.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on March 30, 2007, which is after November 29, 2000 and within 12 months of December 18, 2006 (the filing date of the foreign application to which benefit is now being claimed). On April 1, 2011, an executed Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee was received with the petition filed July 14, 2010. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 2611 for continued examination in due course, and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any questions concerning this matter may be directed to Derek L. Woods at (571) 272-3232.

Christopher Bottorff
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/694,474	03/30/2007	2611	2400	PAT 3639-2	44	4

CONFIRMATION NO. 1024

CORRECTED FILING RECEIPT

26123
BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Date Mailed: 04/14/2011

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)

Abdorreza HEIDARI, Kitchener, CANADA;
Amir K. KHANDANI, Kitchener, CANADA;
Derek MCAVOY, Toronto, CANADA;

Assignment For Published Patent Application

BCE INC., Montreal, CANADA
UNIVERSITY OF WATERLOO, Waterloo, CANADA

Power of Attorney: None

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.)
CANADA 2571385 12/18/2006

If Required, Foreign Filing License Granted: 04/18/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/694,474**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ADAPTIVE CHANNEL PREDICTION SYSTEM AND METHOD

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).

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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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OPTIMAL INNOVATIONS, INC.
1001 WEST 4TH ST.
WINSTON-SALEM NC 27101

MAILED

AUG 25 2010

OFFICE OF PETITIONS

In re Application of :
Peter E. Chow :
Application No. 11/694,495 :
Filed: March 30, 2007 :
Attorney Docket No. :
74268/P010US/10606752

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 15, 2010.

The request is **APPROVED**.

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

The request was signed by Michael T. Morlock on behalf of all attorneys of record who are associated with Customer No. 84373.

All attorneys/agents associated with Customer Number 84373 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, a Notice of Abandonment was mailed August 24, 2010 in the above-identified application.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Optimal Innovations, Inc.
801 Jones Franklin Rd., Suite 210
Raleigh, NC 27606

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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LUCE, FORWARD, HAMILTON & SCRIPPS LLP
2050 MAIN STREET
SUITE 600
IRVINE CA 92614

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
SOSNOWSKI, Stephen A. et al. :
Application No. 11/694,536 : DECISION ON PETITION
Filed: March 30, 2007 : TO WITHDRAW
Attorney Docket No. **37921-11400** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 21, 2011.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to LUCE, FORWARD, HAMILTON & SCRIPPS LLP has been revoked by the assignee of the patent application on February 03, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PERKINS COIE LLP**
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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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DR STEPHAN MOLDERS
AM WASSERTURM 1
NEU-EICHENBERG 37249 DE GERMANY

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Application of :
Stephan Molders :
Application No. 11/694,553 : ON PETITION
Filed: March 30, 2007 :
Title: Tornado Machine - A Mist :
Whirling Apparatus that can be Used :
as an Ornamental Display of Light,
as an Air Humidifier and as an
Aerosol Generator

This is a decision on the petition to revive under 37 CFR 1.137(a), filed July 5, 2011.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed September 22, 2010. This Notice set a shortened statutory period for reply of one (1) month. No reply having been received and no extensions having been purchased, the application became abandoned on October 23, 2010. A Notice of Abandonment was mailed on April 25, 2011.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks items (1) and (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the September 22, 2010 Notice of Non-Compliant Amendment. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy

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

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] MPEP 711.03(c)(II) (emphasis added).

of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[5]

However, as petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. In that case, if petitioner seeks to establish that she did not receive the September 22, 2010 Notice, petitioner must explain his system for keeping track of patent matters; where he keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds herself of response due dates and show that the due date for the September 22, 2010 Notice was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to his most important business.

Alternative Venue and Other Matters:

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

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

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

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

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[5] Id.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

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DR STEPHAN MOLDERS
AM WASSERTURM 1
NEU-EICHENBERG 37249 DE GERMANY

MAILED

SEP 16 2011

OFFICE OF PETITIONS

In re Application of :
Stephan Molders :
Application No. 11/694,553 : ON PETITION
Filed: March 30, 2007 :
Title: Tornado Machine - A Mist :
Whirling Apparatus that can be Used :
as an Ornamental Display of Light,
as an Air Humidifier and as an
Aerosol Generator

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed September 9, 2011.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed September 22, 2010. This Notice set a shortened statutory period for reply of one (1) month. No reply having been received and no extensions having been purchased, the application became abandoned on October 23, 2010. A Notice of Abandonment was mailed on April 25, 2011. Applicant filed a

petition to revive under 37 CFR 1.137(a) on July 5, 2011, asserting that he did not receive the Notice of Non-Compliant Amendment. However, the petition was dismissed in a decision mailed on July 29, 2011. The decision explained that petitioner had not submitted sufficient documentary evidence to establish that he did not receive the Notice of Non-Compliant Amendment.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks item (1).

With the instant renewed petition, petitioner has submitted sufficient documentary evidence establishing non-receipt of the Notice of Non-Compliant Amendment. Moreover, petitioner has explained his system for keeping track of patent correspondence and reminding himself of due dates. Accordingly, it is concluded that petitioner has established unavoidable delay.

However, petitioner has not submitted drawings as required by the Notice of Non-Compliant Amendment. A review of that Notice indicates that petitioner was notified that his drawings filed on August 27, 2010 were not properly identified in the top margins as "Replacement Sheet", "New Sheet", or "Annotated Sheet" as required by 37 CFR 1.121(d).

Petitioner's drawings filed with the instant petition on September 9, 2011 are not properly identified in the top margins as "Replacement Sheet", "New Sheet", or "Annotated Sheet" as required by 37 CFR 1.121(d).

Accordingly, on renewed petition, petitioner must submit drawings with the proper identification in the top margin.

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

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DR STEPHAN MOLDERS
AM WASSERTURM 1
NEU-EICHENBERG 37249 DE GERMANY

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Stephan Molders :
Application No. 11/694,553 : ON PETITION
Filed: March 30, 2007 :
Title: Tornado Machine - A Mist :
Whirling Apparatus that can be Used :
as an Ornamental Display of Light,
as an Air Humidifier and as an
Aerosol Generator

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed September 26, 2011.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed September 22, 2010. This Notice set a shortened statutory period for reply of one (1) month. No reply having been received and no extensions having been purchased, the application became abandoned on October 23, 2010. A Notice of Abandonment was mailed on April 25, 2011. Applicant filed a petition to revive under 37 CFR 1.137(a) on July 5, 2011, asserting that he did not receive the Notice of Non-Compliant

Amendment. However, the petition was dismissed in a decision mailed on July 29, 2011. The decision explained that petitioner had not submitted sufficient documentary evidence to establish that he did not receive the Notice of Non-Compliant Amendment.

Applicant filed a renewed petition to revive under 37 CFR 1.137(a) on September 9, 2011. However, the petition was dismissed in a decision mailed on September 16, 2011. The decision explained that petitioner had successfully demonstrated non-receipt of the Notice of Non-Compliant Amendment. However, the decision noted that the drawings submitted with the petition were not acceptable, as they were not identified in the top margins as "Replacement Sheet", "New Sheet", or "Annotated Sheet" as required by 37 CFR 1.121(d).

With the instant renewed petition, petitioner has submitted drawings, each page identified in the top margin as "Replacement Sheet".

In view thereof, all of the requirements for a grantable petition under 37 CFR 1.137(a) have been satisfied.

The application is being forwarded to Group Art Unit 1776 for consideration of the Amendment and Drawings, filed September 26, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 15 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,900,259	: DECISION ON REQUEST
Jeschke et al.	: FOR
Issue Date: 03/01/2011	: RECONSIDERATION OF
Application No. 11/694,659	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/30/2007	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
21893-0002001	: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed on April 29, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five (1005) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five (1005) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five (1005)** days.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,900,259 B2

DATED : **Mar. 1, 2011** **DRAFT**

INVENTOR(S) : Jeschke 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 970 days.

Delete the phrase "by 970 days" and insert – by 1005 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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MAILED

OCT 26 2011

OFFICE OF PETITIONS

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

In re Patent of Cornwell et al: DECISION ON
Patent No. 8,000,134 : REQUEST FOR RECONSIDERATION
Issue Date: August 16, 2011 : OF
Application No. 11/694,799 : PATENT TERM ADJUSTMENT &
Filed: March 30, 2007 : NOTICE OF INTENT TO ISSUE
Atty Docket No.
P4202US9/19154-042001

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d), filed October 17, 2011. Patentees request that the revised patent term adjustment indicated on the patent be corrected from eight hundred fifteen (815) days to eight hundred fifty-seven (857) days.

The petition is **GRANTED**.

On August 16, 2011, the above-identified application matured into U.S. Patent No. 8,000,134 with a revised patent term adjustment of 815 days. On October 17, 2011, patentees timely filed the instant petition.

Patentees argue that the patent term adjustment indicated in the patent is incorrect and should be recalculated because the Office should not have charged applicants with a 43 day reduction under 37 CFR 1.704(c)(10) for the filing of a Response to Notice of Allowance on July 5, 2011, after the mailing of the Notice of Allowance on April 6, 2011. In addition, patentees disclose the Office improperly calculated Applicant delay under 37 CFR 1.704(c)(8) associated with a supplemental reply filed on March 14, 2011, not March 13, 2011 as Office records indicate.

Patentees are correct that the Office failed to enter a proper length of reduction for an Information Disclosure Statement filed on March 14, 2011. After applicants filed a reply on January 10, 2011 to a final Office action, applicants submitted a supplemental reply or paper in the form of an Information

Disclosure Statement (IDS) on March 14, 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 March 14, 2011, reveals that applicants did not include a statement under 37 CFR 1.704(d). Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 63, not 62, days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, January 11, 2011, and ending on the date that the IDS was filed, March 14, 2011. Accordingly, the period of reduction of 62 days will be removed and a period of reduction of 63 days will be entered.

Patentees contend that applicants did not engage in behavior that reasonably would be considered as failing in efforts to conclude prosecution of the application by filing a Response to Notice of Allowance on July 5, 2011.

The reduction has been considered and a reduction is found **not** to be warranted.

37 CFR § 1.704(c)(10) provides that:

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

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

or

(ii) Four months;

As stated in MPEP 2732:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of

amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

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

A response to an examiner's reasons for notice of allowance is explicitly **not** a ground for reduction. See (6) above.

In view thereof, 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 eight hundred fifty-seven (857) days, which is 495 days of A delay + 504 days of B delay minus 142 (79 + 63) days of Applicant delay.

The Office acknowledges receipt of the required $200.00 fee set forth in 37 CFR 1.18(e). 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 **eight hundred fifty-seven (857)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,000,134 B2

DATED : **August 16, 2011** **DRAFT**

INVENTOR(S) : Cornwell et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 815 days

Delete the phrase "by 815 days" and insert – by 857 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120412-B

DATE : April 12, 2012

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,764,747

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

UNITED STATES 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 7, 2012

In re Application of Kevin Walsh

Application No. 11695001

Filed: 31-Mar-2007

Attorney Docket No. W006.P001U1

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), January 7, 2012 , to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the outstanding final Office action. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and/or response, Request for Continued Examination, and the filing fee required under 37 CFR 1.17(e); (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the Request for Continued Examination and the amendment and/or response are accepted as having been unintentionally delayed.

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

This application file is being directed to the Technology Center.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11695001
Filing Date	31-Mar-2007
First Named Inventor	Kevin Walsh
Attorney Docket Number	W006.P001U1
Title	PHOTOELECTRIC CELLS UTILIZING A CONTACT BAND OFFSET

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

Petition Fee

- ○ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ○ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ◉ Applicant(s) status remains as SMALL ENTITY.
- ○ Applicant(s) status remains as other than SMALL ENTITY.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ○ Amendment and response are attached

RCE request,submission, and fee.

- ◉ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on 08-08-2011
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○	I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on
○	Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒	STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○	An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
○	An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
◉	A sole inventor
○	A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
○	A joint inventor; all of whom are signing this e-petition
○	The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Kevin M. Walsh/
Name	Kevin M. Walsh

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Application of :
Sophy Merszei :
Application No. 11/695,033 : DECISION ON PETITION
Filed: April 1, 2007 :
Attorney Docket No. PUS-N001-266 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 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. A Notice of Abandonment was mailed on March 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3776 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Sherman D. Pernia
P.O. Box 58554
Houston, TX 77058

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JUL 08 2011

OFFICE OF PETITIONS

In re Application of
Dave et al.
Patent Number: 7917528
Issue Date: 03/29/2011
Application No. 11/695177
Filing or 371(c) Date: 04/02/2007
Attorney Docket Number:
16113-409001

DECISION ON
APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the petition filed on May 31, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred ten (310) 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 by three hundred ten (310) days is **DISMISSED**.

Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on November 4, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on November 30, 2010. Patentees request an additional one hundred twenty (120) 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, March 29, 2011. Patentees aver that with the mailing of the Notice of Allowance on November 30, 2010, the Office closed examination on the present application on that date, and no continued examination took place in the 120-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 120 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 310 days, instead of 190 days.

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

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

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

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

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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

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

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

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

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

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

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

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

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

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

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 3, 2010, and ends on November 11, 2009, the day before the RCE, filed November 12, 2009, was filed, and is zero (0) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 190 days, not 310 days.

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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SEP 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Dave et al.	:	
Patent Number: 7,917,528	:	DECISION ON RESPONSE
Issue Date: 03/29/2011	:	TO DECISION ON
Application No. 11/695177	:	APPLICATION FOR
Filing or 371(c) Date: 04/02/2007	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
16113-409001	:	

This is a decision on the petition filed on September 8, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred ten (310) 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 by three hundred ten (310) days is **DENIED**.

Patentees filed, inter alia, a Request for Continued Examination ("RCE"), on November 4, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on November 30, 2010. Patentees request an additional one hundred twenty (120) 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, March 29, 2011. Patentees aver that with the mailing of the Notice of Allowance on November 30, 2010, the Office closed examination on the present application on that date, and no continued examination took place in the 120-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 120 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 310 days, instead of 190 days.

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

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

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

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

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

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

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

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

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

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

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

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

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

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

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

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

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

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 3, 2010, and ends on November 11, 2009, the day before the RCE, filed November 12, 2009, was filed, and is zero (0) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 190 days, not 310 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**.

---

[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

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PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS OH 43215

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Kiyoshi HANDA	:	
Application No. 11/695,194	:	DECISION ON PETITION
Filed: April 02, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3994994-165079	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 06, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. 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 3771 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
11/695,194	04/02/2007	3771	1880	3994994-165079	10	1

CONFIRMATION NO. 2235

CORRECTED FILING RECEIPT

23570
PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS, OH 43215

OC00000046286729

Date Mailed: 03/02/2011

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

Applicant(s)

Kiyoshi Handa, Tochigi, JAPAN;

Power of Attorney:
Edwin Baranowski--27482
Melanie Martin-Jones--50321

Domestic Priority data as claimed by applicant

This application is a CIP of 11/682,574 03/06/2007 PAT 7,735,528
and is a CIP of 11/687,905 03/19/2007 PAT 7,891,386
and said 11/682,574 03/06/2007
is a CIP of 11/279,574 04/13/2006 PAT 7,377,294
which claims benefit of 60/673,175 04/20/2005
and said 11/682,574 03/06/2007
is a CIP of 11/380,429 04/27/2006 PAT 7,637,292
which claims benefit of 60/679,032 05/09/2005
and said 11/682,574 03/06/2007
is a CIP of 11/381,005 05/01/2006 PAT 7,681,604
which claims benefit of 60/679,102 05/09/2005
and said 11/682,574 03/06/2007
is a CIP of 11/380,996 05/01/2006 PAT 7,757,726
which claims benefit of 60/678,253 05/06/2005

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: 04/24/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/695,194**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Supplemental Heat Exchange for High Pressure Gas Tank

Preliminary Class

096

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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ROCKWELL AUTOMATION, INC. / WHD
ATTENTION: SUSAN M. DONAHUE
PATENT DEPT. / E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Application of
Wayne R. Davis
Application No. 11/695,244
Filed: April 2, 2007
Attorney Docket No: 06AB233-US
(ALBR:0398)

ON PETITION

This is a decision on the petition filed March 31, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 21, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned August 22, 2010. Accordingly, a Notice of Abandonment was sent via Electronic Notification on December 17, 2010.

This matter is being referred to Technology Center 2491 for appropriate action on the amendment filed March 31, 2011.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Application of :
Royannez et al. :
Application No. 11/695,304 : ON PETITION
Filed: April 2, 2007 :
Attorney Docket No. TI-60857 :

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1860.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2116 for further examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/695,470	04/02/2007	William H. Eby	1421-276	2716

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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SEP 0 7 2010

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

In re Application of:
William H. Eby
Serial No.: 11/695,470
Filed: April 2, 2007
Attorney Docket No.: **1421-276**

: PETITION DECISION

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 October 7, 2008 and April 2, 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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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of
Johnson, et al.
Application No. 11/695,523
Filed: April 2, 2007
Attorney Docket Number: 09888-1983

: ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), August 30, 2011. Applicants believe that the PTA should be accorded an additional five hundred forty-nine (549) days. Applicants request 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 **zero (0) days**.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of:
Ghassemlou et al.
Application No. 11/695538
Filing or 371(c) Date: 04/02/2007
Atty. Docket No.:
0YFZ-128675

: DECISION ON RESPONSE
: TO DETERMINATION OF
: PATENT TERM ADJUSTMENT

This decision is in response to the petition filed July 2, 2010. The petition is properly treated as an Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b).

The application for patent term adjustment is **GRANTED to the EXTENT INDICATED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0) days**. A copy of the updated PALM screen, showing the correct determination, is enclosed.

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 six (6) days.

On July 2, 2010, applicants timely submitted the present application for patent term adjustment[1]. Applicants note that Office records do not indicate an Applicant delay of ninety-one (91) days in connection with the filing of a reply to an Office action mailed March 10, 2009, on September 10, 2009, three months and 91 days after the Office action was mailed,.

A review of Office records confirms that the Office mailed a non-final Office action on March 10, 2009. Applicant filed a reply to the Office action on September 10, 2009, three months and ninety-two (92) days after the mailing of the non-final Office action. Accordingly, a reduction of 92 days pursuant to 37 CFR 1.704(b) is properly attributed to Applicant.

[1] Office records show that the Issue Fee payment was received in the Office on July 2, 2010.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is **zero (0)** days (95 days Office delay - 181 days Applicant delay.

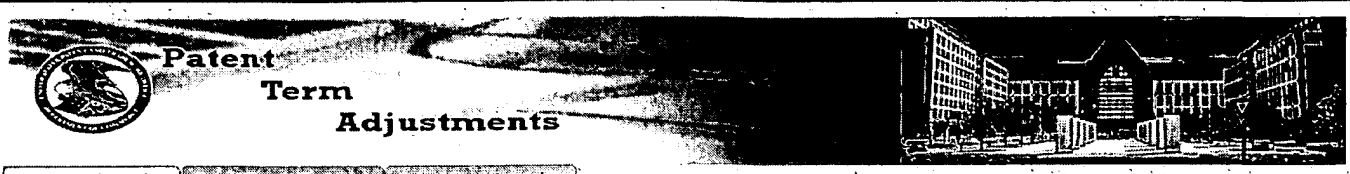
The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations



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

Application Number*: 11695538 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11695538

Application Filing Date	04/02/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	95
A Delays	95	PTO Manual Adjustment	-92
B Delays	0	Applicant Delay (APPL)	89
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
71	11/19/2010		P028	Adjustment of PTA Calculation by PTO		22	0
60	06/14/2010		MN/=.	Mail Notice of Allowance			0
59	06/11/2010		IREV	Issue Revision Completed			0
58	06/11/2010		DVER	Document Verification			0
57	06/11/2010		N/=.	Notice of Allowance Data Verification Completed			0
56	05/24/2010		CNTA	Notice of Allowability			0
55	04/21/2010		FWDX	Date Forwarded to Examiner			0
54	04/09/2010		A...	Response after Non-Final Action			0
53	02/16/2010	01/10/2010	MCTNF	Mail Non-Final Rejection	37		45
52	02/09/2010		CTNF	Non-Final Rejection			0
46	01/07/2010		FWDX	Date Forwarded to Examiner			0
44	12/18/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
43	12/18/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
42	12/18/2009		MPREV	Mail-Petition to Revive Application - Granted			0
41	12/18/2009		PREV	Petition to Revive Application - Granted			0
51	10/07/2009		IDSC	Information Disclosure Statement considered			0
50	10/07/2009		RCAP	Reference capture on IDS			0
49	10/07/2009		M844	Information Disclosure Statement (IDS) Filed			0
48	10/07/2009		M844	Information Disclosure Statement (IDS) Filed			0
39	10/07/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
40	10/06/2009		PET.	Petition Entered			0
38	09/16/2009		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
37	09/14/2009		ABN2	Aband. for Failure to Respond to O. A.			0
47	09/10/2009		C614	New or Additional Drawing Filed			0
45	09/10/2009		A...	Response after Non-Final Action			0
36	03/10/2009		MCTNF	Mail Non-Final Rejection			0
35	03/08/2009		CTNF	Non-Final Rejection			0
32	02/10/2009		FWDX	Date Forwarded to Examiner			0
34	01/27/2009		IDSC	Information Disclosure Statement considered			0
33	01/27/2009	01/27/2009	EIDS.	Electronic Information Disclosure Statement			31
31	01/27/2009	10/30/2008	A...	Response after Non-Final Action		89	26
30	01/27/2009		XT/G	Request for Extension of Time - Granted			0
29	01/27/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
28	09/04/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
27	09/02/2008		C.AD	Correspondence Address Change			0
26	07/30/2008	06/02/2008	MCTNF	Mail Non-Final Rejection	58		-1
25	07/29/2008		CTNF	Non-Final Rejection			0
20	03/04/2008		DOCK	Case Docketed to Examiner in GAU			0
19	11/29/2007		PG-ISSUE	PG-Pub Issue Notification			0
18	10/17/2007		WS25	Withdraw Flagged for 5/25			0
17	10/16/2007		FS25	Flagged for 5/25			0
16	09/17/2007		C614	New or Additional Drawing Filed			0
15	09/04/2007		MNPRL	Mail Non-Compliant Preliminary Amendment			0
14	08/31/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	08/31/2007		NPRL	Non-Compliant Preliminary Amendment			0
10	08/28/2007		OIPE	Application Dispatched from OIPE			0
9	08/22/2007		PGPC	Sent to Classification Contractor			0
8	08/22/2007		COMP	Application Is Now Complete			0
24	08/03/2007		IDSC	Information Disclosure Statement considered			0
12	08/03/2007		C614	New or Additional Drawing Filed			0
11	08/03/2007		EIDS.	Electronic Information Disclosure Statement			0
5	08/03/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
7	08/02/2007		FLFEE	Payment of additional filing fee/Preexam			0
6	08/02/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
4	05/03/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	04/26/2007		L194	Cleared by OIPE CSR			0
2	04/22/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	04/02/2007		IEXX	Initial Exam Team nn			0

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SPECKMAN LAW GROUP PLLC
2014-B East Union
SEATTLE WA 98122

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Patent No. 7,269,873	:	
Issue Date: September 18, 2007	:	
Application No. 11/695,580	:	NOTICE
Filed: April 7, 2007	:	
Attorney Docket No. 13330.1003Ap	:	

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

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

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

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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HOLME ROBERTS & OWEN LLP-CLIENT-1
1700 LINCOLN STREET, SUITE 4100
DENVER, CO 80203

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Hall, David R. et al.	:	
Application No. 11/695,689	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: April 03, 2007	:	
Attorney Docket No. **55724-00010**	:	

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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1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of
Chang-June C.J. Yoon et al
Application No. 11/695,879
Filed: April 3, 2007
Attorney Docket No. 2803.0353C

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition filed October 8, 2010, which is being treated as a petition under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on July 13, 2010, with the issue fee being due on or before October 13, 2010. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 2472 for appropriate processing of the RCE filed October 8, 2010, and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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39555 ORCHARD HILL PLACE
SUITE 520
NOVI MI 48375

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
David E. EARHART et al. :
Application No. 11/695,890 : DECISION ON PETITION
Filed: April 03, 2007 :
Attorney Docket No. GP-309142-PTA-DLT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 03, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 05, 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 June 06, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Restriction Requirement of May 05, 2010 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/15/2012

TO SPE OF : ART UNIT 1716 Hassan zadeh PARVIZ (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/695918 Patent No.: 8083963

CofC mailroom date: 1/27/2012

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: Please do not apply the changes as requested, instead make the following corrections in the US patent NO. 8,083,963 B2:
in claim 10, change (c) to (b)(2);
in claim 13, change (c) to (b)(2); and
in claim 16, change (c) to (b)(2).

/Parviz Hassanzadeh/ 1716

SPE Art Unit

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JUN 29 2011

OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

In re Application of:
HOUSTON ET AL.
Serial No.: 11/696,052
Filed: April 3, 2007
Attorney Docket No.: 081421.000012

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 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 February 13, 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; (2) the petition fee of $810.00; and (3) a statement of unintentional delay. Accordingly, the reply to the non-final Office action of November 12, 2010 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1782 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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Paper No.

Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

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NOV 16 2011

OFFICE OF PETITIONS

In re Application of :
Drolshagen et al. :
Application No. 11/696,085 :
In re Patent No. 7,896,523 : DECISION ON PETITION
Filing Date: April 3, 2007 : PURSUANT TO 37 C.F.R.
Issue Date: March 1, 2011 : § 3.81(B)
Attorney Docket Number: BKP-0109-US :
Title: TARGET ILLUMINATOR FOR NIGHT-VISION DEVICES :

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed June 2, 2011, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED.**

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. On June 2, 2011, Petitioner submitted a "Certificate of Correction" for this purpose, which requests the addition of assignee "Juergen Drolshagen, Cologne (DE)."

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

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

by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on June 14, 2007, listing Juergen Drolshagen of Cologne, Germany as an assignee.

Payment of the required $100 certificate of correction fee and the $130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, adding "Juergen Drolshagen, Cologne (DE)" as an assignee.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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552 EAST 700 NORTH
VALPARAISO IN 46383

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AUG 11 2011

OFFICE OF PETITIONS

In re Application of :
KOOL, Lawrence B. :
Application No. 11/696,307 : DECISION ON PETITION
Filed: April 4, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 182632 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 15, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

Copendency does not exist between the present application serial no. 11/696,307 filed April 4, 2007, and application serial no. 10/749,486, filed December 31, 2003.

Under 35 U.S.C. 120, when a later-filed application is claiming the benefit of a prior-filed nonprovisional application, the later-filed application must be copending with the prior application or with an intermediate nonprovisional application similarly entitled to the benefit of the filing date of the prior application. Copendency is defined in the clause which requires that the later-filed application must be filed before: (A) the patenting of

the prior application; (B) the abandonment of the prior application; or (C) the termination of proceedings in the prior application.

Here, application serial no. 10/749,486 was patented on October 24, 2006, before the filing date of present application serial no. 11/696,307 April 4, 2007.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.78(a)(3) was unintentional, petitioner must notify the Office.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Bucci
Petitions Examiner
Office of Petitions

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Innovation Counsel LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino CA 95014

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MAY 19 2011

OFFICE OF PETITIONS

In re Application of :
Kunjal Parikh et al. :
Application No. 11/696,309 : DECISION ON PETITION
Filed: April 4, 2007 :
Attorney Docket No. PANK01872 US :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 21, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 20, 2010. Accordingly, the date of abandonment of this application is March 22, 2011. A Notice of Abandonment was mailed on April 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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FOLEY HOAG, LLP
Patent Group
World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Vladimir Malinin	:	
Application No. 11/696,343	:	DECISION ON PETITION
Filed: February 10, 2011	:	TO WITHDRAW
Attorney Docket No. TRA-049.01	:	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, 2011.

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

A review of the file record indicates that the power of attorney to Foley Hoag, LLP has been revoked by the assignee of the patent application on March 10, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **GREENBERG TRAURIG, LLP**
200 Park Avenue
P.O. Box 677
Florham Park, NJ 07932

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,746,867 :
Issued: June 29, 2010 : DECISION ON PATENT TERM
Application No. 11/696,398 :
Filed: April 4, 2007 :
Atty. Dkt. No.: 13789US03 :

This is a decision on the application for patent term adjustment filed August 27, 2010 requesting that the patent term adjustment be increased from 336 days to 337 days.

The request for reconsideration of the patent term adjustment (PTA) set forth in the decision mailed June 18, 2010 is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,746,867 on June 29, 2010. The patent issued with a patent term adjustment of 336 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the reduction of one day in connection with the submission of the issue fee on May 17, 2010 and reference 37 CFR 1.6(a)(1) and 1.7(a).

Patentee's arguments have been carefully considered, but are not persuasive. The Notice of Allowance was mailed February 16, 2010. The issue fee was submitted May 17, 2010. Thus, in accordance with 37 CFR 1.704(b), the adjustment of 424 days was properly reduced one day, the reduction having commenced and ended May 17, 2010.

Patentee's attention is directed to MPEP 2731 wherein it states in part:

> "Moreover, 37 CFR 1.703(f) provides that the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in this calculation. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation."

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
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

MAILED

NOV 17 2010

OFFICE OF PETITIONS

BARNES & THORNBURG LLP
600 ONE SUMMIT SQUARE
FORT WAYNE IN 46802

In re Application of	:	
Butler, Charles F.	:	DECISION ON PETITION
Application No. 11/696,458	:	TO WITHDRAW
Filed: April 4, 2007	:	FROM RECORD
Attorney Docket No. 44777/83139	:	

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 **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioners were appointed via Customer Number. However, the Customer Number was not provided on the request.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed October 1, 2010 that requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

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

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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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BARNES & THORNBURG LLP
600 ONE SUMMIT SQUARE
FORT WAYNE IN 46802

MAILED

DEC 10 2010

OFFICE OF PETITIONS

In re Application of :
Butler, Charles F. :
Application No. 11/696,458 :
Filed: April 4, 2007 :
Attorney Docket No. 44777/83139 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 22, 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 Michael E. Wever on behalf of all attorneys/agents of record who are associated with Customer Number 23641. All attorneys/agents associated with Customer Number 23641 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, Charles F. Butler, at the address indicated below.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: CHARLES F. BUTLER
2130 SOUTH PARK
KALAMAZOO MI 49001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 1 1 2011

In re Application of	:	
Christian Hubschwerlen, et al.	:	NOTICE OF WITHDRAWAL
Serial No. 11/696513	:	FROM ISSUE
Filed: April 4, 2007	:	UNDER 37 CFR 1.313(b)
For: NEW PIPERIDINE ANTIBIOTICS	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to the SPE, Janet Andres at (571) 272-0867.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Irem Yucel, Director
Technology Center 1600

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
2200 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

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.
11696513	04 April, 2007	HUBSCHWERLEN ET AL.	66535.000006

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
2200 Pennsylvania Avenue, N.W.
WASHINGTON, DC 20037

EXAMINER	
ART UNIT	PAPER
	20110810-1

DATE MAILED:

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

Commissioner for Patents

PTO-90C (Rev.04-03)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 7, 2010

TO SPE OF : ART UNIT 3725 - SPE Dana Ross.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/696,576 Patent No.: 7,677,483 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the dependency in Claim 7 be changed from "4" to "6"?
See COCIN dated 08-27-2010

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE_/Dana Ross/_____ **Art Unit __3725_____**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MCHALE & SLAVIN PA
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of :
Ron Svensson :
Application No. 11/696,630 : ON PETITION
Filed: April 4, 2007 :
Attorney Docket No. 4030U.002 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 17, 2011.

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

The above-identified application became abandoned for failure to timely file a proper reply in response to the Office action mailed October 7, 2009. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on November 8, 2009. The Office mailed a Notice of Abandonment on April 29, 2010.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.

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

The application is being forwarded to Group Art Unit 3751 for consideration of the Election, filed August 17, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/696,637	04/04/2007	Christopher L. Reading	202.8.1	4839

26551 7590 11/17/2010

HARBOR BIOSCIENCES, INC.
9171 TOWNE CENTRE DRIVE
SUITE 180
SAN DIEGO, CA 92122

EXAMINER	
SZNAIDMAN, MARCOS L	
ART UNIT	**PAPER NUMBER**
1628	

MAIL DATE	DELIVERY MODE
11/17/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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NOV 17 2010

HARBOR BIOSCIENCES, INC.
9171 TOWNE CENTRE DRIVE
SUITE 180
SAN DIEGO CA 92122

In re Application of	:	
Reading et al.	:	
Serial No.: 11/696,637	:	Decision on Petition
Filed: April 4, 2007	:	
Attorney Docket No.: **202.8.1**	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on September 15, 2010 to reverse the examiner's refusal to enter the after final amendment mailed September 8, 2010.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on June 22, 2010. Claims 14-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Loria. Claims 14-18 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting over copending Application No. 12/272,767.

On August 23, 2010, applicants submitted an after final amendment including claim amendments and remarks.

On September 8, 2010, the examiner mailed to applicants an advisory action indicating that the after final amendment would not be entered because new issues requiring new search and consideration would be raised and the amendment did not simplify the issues for appeal.

On September 15, 2010, applicants submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that "The only claim amendment at issue is replacement of the transitional phrase "comprising" with "consisting of" in independent claim 14. It is this particular amendment to claim 14 that is solely responsible for non-entry of the claim amendments that Applicant submitted in response to final rejection. Applicants assert the claim amendment at issue complies with 37 C.F.R. § 1.116, since it removes an issue for appeal and the Examiner has not indicated or argued otherwise. Instead the Examiner has not entered the claim amendments since the proposed amendment "require[s] further consideration to determine if the amended claims are novel, or non-obvious over the prior art." Applicants asset this rationale to refuse entry of Applicants claim amendments is arbitrary and capricious, and thus in violation of the Administrative Procedure Act, and contrary to the guidance provided by M.P.E.P. § 714.13, since there is no basis in logic, fact or law for the Examiner's asserted reasons for denying entry of the claim amendments."

Applicants further point out "Applicants' proposed amendment of "comprising" to "consisting of" is a narrowing amendment. This narrowing amendment to claim 14 does not require any further evaluation for novelty or obviousness that could not have been applied to the previously examined claims. Applicants therefore assert that any other art or basis of rejection that could be applied to Applicants' narrowing amendment not already applied could and should have been applied during prior prosecution. The Examiner's assertion that "new art or a new basis of rejection" is prompted solely by Applicants' proposed amendment of "comprising" to "consisting of" is unsupported by any rationale and is thus arbitrary and capricious."

Applicants arguments have been accorded careful consideration but they are not persuasive that the examiner erred by not entering the amendment after final. Applicants attempt at "narrowing" the claims by changing "comprising" to "consisting of" changes the scope of the claims. Such a narrowing may, in fact, remove the rejection of record, thereby requiring the examiner to perform a new search based on those amendments. In any event, a new consideration of the claims would be required by admitting the after final amendment of August 23, 2010.

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.

Remy Yucel
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/696,637	04/04/2007	Christopher L. Reading	202.8.1	4839

26551 7590 01/18/2011

HARBOR BIOSCIENCES, INC.
9171 TOWNE CENTRE DRIVE
SUITE 180
SAN DIEGO, CA 92122

EXAMINER	
SZNAIDMAN, MARCOS L	
ART UNIT	PAPER NUMBER
1628	
MAIL DATE	DELIVERY MODE
01/18/2011	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.

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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JAN 18 2011

HARBOR BIOSCIENCES, INC.
9171 TOWNE CENTRE DRIVE
SUITE 180
SAN DIEGO CA 92122

In re Application of	:	
Reading et al.	:	
Serial No.: 11/696,637	:	Decision on Petition
Filed: April 4, 2007	:	
Attorney Docket No.: **202.8.1**	:	

This letter is in response to the renewed petition filed under 37 C.F.R. § 1.181 filed on December 10, 2010 to reconsider the petition of November 17, 2010 which was denied.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on June 22, 2010. Claims 14-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Loria. Claims 14-18 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting over copending Application No. 12/272,767.

On August 23, 2010, applicants submitted an after final amendment including claim amendments and remarks.

On September 8, 2010, the examiner mailed to applicants an advisory action indicating that the after final amendment would not be entered because new issues requiring new search and consideration would be raised and the amendment did not simplify the issues for appeal.

On September 15, 2010, applicants submitted a petition to enter the after final amendment of August 23, 2010.

On November 17, 2010, the petition to enter the after final amendment of August 23, 2010 was denied.

On December 10, 2010, applicants submitted a request for reconsideration of the decision of November 17, 2010.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that "Claim amendments were submitted on August 23, 2010 in response to the Final rejection having the mail date of June 22, 2010. The claim amendments were denied entry in the Advisory Action having the mail date of September 8, 2010. The denial was based solely upon the amendment replacing the transitional phrase "comprising" with "consisting of" in the only independent claim examined on the merits."

Applicants further point out "a narrowing amendment does not require an additional search, particularly with respect to Applicants' elected species, which is directed to formulations of a specific compound. Applicants thus assert no additional search is required that could not have been conducted by the Examiner using the unamended claims. Applicants' request the Technology Center to rebut this *prima facie* assertion by explaining why a new search would be required for narrower amended claims, and in particular why this new search is required for the elected formulation species given that the identity of the compound in the formulation species remains unchanged. Additionally, a narrowing amendment does not require a new consideration of the claims that could not have been made prior to the narrowing amendment, except, of course, if the amendment places the application in condition for allowance. Again, an amendment after final placing an application in condition for allowance is to be entered pursuant to 37 C.F.R. § 1.116 and M.P.E.P. § 714.13."

Applicants arguments have again been accorded careful consideration but they are not persuasive that the examiner erred by not entering the amendment after final. A final rejection closes prosecution. Thus, any amendments after final entered have to clearly render the claims allowable or have been suggested by the examiner. This is not the case in the instant application where such a claim amendment obviates the only art rejection of record (i.e. Loria). Applicants amendment to narrow the claims by changing "comprising" to "consisting of" changes the scope of the claims. Entering this amendment would require the examiner to perform a new search because the rejection over Loria would no longer apply. Specifically, Loria will no longer anticipate the claims since Loria teaches a formulation "comprising": 1- at least one orticosteroid, and 2- one immunoregulating compound selected from the group consisting of the compound elected by Applicant (see for example claim 1 of Loria). Furthermore, since the formulations described by Loria comprise other effective ingredients besides the one claimed by Applicant, the examiner will be forced to find another reference to justify the use of applicant's elected compound as the ONLY active ingredient. Applicants should also note that contrary to Applicant's assertion that "The Examiner has made an oversight by not doing a complete search

an inadvertently engaging in piecemeal examination", the Examiner has done a thorough search of the claims "as originally filed" and properly rejected the claims with a 102 rejection that was and still is appropriate when considering the term "comprising" at the time of final rejection. An examiner simply can not anticipate every future amendment and search the literature based on those potential changes to the claims.

DECISION

The petition is again **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.

Remy Yucel
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SJM/AFD - ARMSTRONG
LEGAL DEPARTMENT
ONE ST. JUDE MEDICAL DRIVE
ST. PAUL MN 55117-9913

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of :
Pappone, et al. :
Application No. 11/696,657 : DECISION
Filed/Deposited: 4 April, 2007 :
Attorney Docket No. 0F-048100US :

This is a decision on the petition filed on 23 May, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 25 March, 2010, with required reply due absent extension of time on or before 25 June, 2010.

The application went abandoned by operation of law after midnight 25 June, 2010.

The Office mailed the Notice of Abandonment on 14 March, 2011.

On 23 May, 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 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 and an information disclosure statement (IDS).

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

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

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

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

CONCLUSION

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

The instant application is released to the Technology Center/AU 3767 for further processing in due course.

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

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

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

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

§1.2 Business to be transacted in writing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/08/11

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 11696709 Patent No.: 7557009

CofC mailroom date: 08/22/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

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

Decision Date : July 25,2011

In re Application of :

David Christie

Application No : 11696814

Filed : 05-Apr-2007

Attorney Docket No : V2006031

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed July 25,2011 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11696814
Filing Date	05-Apr-2007
First Named Inventor	David Christie
Art Unit	3671
Examiner Name	THOMAS BEACH
Attorney Docket Number	V2006031
Title	THROUGH-RISER INSTALLATION OF TREE BLOCK

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/denver s. bisignano/
Name	Bisignano
Registration Number	60693

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 17,2011

In re Application of :

Scott Curtis

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11696849

Filed : 05-Apr-2007

Attorney Docket No : 1116-043

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 17,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2179 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	11696849
Filing Date	05-Apr-2007
First Named Inventor	Scott Curtis
Art Unit	2179
Examiner Name	NICHOLAS AUGUSTINE
Attorney Docket Number	1116-043
Title	SYSTEM AND METHOD FOR AUTOMATICALLY AND GRAPHICALLY ASSOCIATING PROGRAMMATICALLY-GENERATED MEDIA ITEM RECOMMENDATIONS RELATED TO A USER'S SOCIALLY RECOMMENDED MEDIA ITEMS

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	/R. Chad Bevins/
Name	R. Chad Bevins
Registration Number	51468

UNITED STATES 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

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Eri Noguchi, et al.	:	
Application No. 11/696,959	:	DECISION GRANTING PETITION
Filed: April 5, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01272.140237.	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 27, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 27, 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 AU2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Andrew F. Bodendorf
P.O. BOX 34688
WASHINGTON DC 20043

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Application of :
Edwardo Salcedo et al. :
Application No. 11/696,992 : DECISION ON PETITION
Filed: April 5, 2007 :
Attorney Docket No. 00_KJM_60010001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 29, 2009. A Notice of Abandonment was mailed on December 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $930, (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 3775 for appropriate action by the Examiner in the normal course of business on the reply received January 11, 2012.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kevin J. McNeely
5335 Wisconsin Avenue, NW
Suite 440
Washington, DC 20015

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of :
Reohr :
Application No. 11/697,036 :
Patent No. 7,336,553 :
Filed: April 5, 2007 :
Issued: February 26, 2008 :
Attorney Docket No. YOR920050246US2 :
Title: ENHANCED SENSING IN A HIERARCHICAL MEMORY ARCHITECTURE :

DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.182

This is in response to the petition filed on June 15, 2010 pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer.

This petition is **GRANTED** to the extent that the concurrently submitted terminal disclaimer is accepted, and it appears in the electronic record.

The terminal disclaimer submitted on September 13, 2007 will not be withdrawn.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's

convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Wayne L. Ellenbogen
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERLINS COIE LLP
P.O. BOX 1247
SEATTLE, WASHINGTON 98111-1247

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of :
Jian WANG et al :
Application No. 11/697,112 : ON PETITION
Filed: April 5, 2007 :
Attorney Docket No. 418268425 :

This is a decision on the petition, filed on December 23, 2010, requesting suspension of the rules of the rules under 37 CFR 1.183.

The petition is **DISMISSED**.

Any reply must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitions under 37 CFR 1.183 require a fee (currently $400.00) under 37 CFR 1.17(f). Since the fee has not been received the petition is dismissed and no decision on the merits given.

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.**

The application file is being forwarded to Technology Center 2626 for further action as appropriate.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Chang-Hun LEE, et *al.* :
Application No. 11/697,122 : DECISION GRANTING PETITION
Filed: April 5, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **8071-38 DIV III (OPP 0703** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 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 February 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) 272-7253.

This application is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/697,201	04/05/2007	Audrey Goddard	GNE-0304-R1C2 (P3121R1C2)	5907

35489 7590 08/30/2011

Arnold & Porter LLP (24126)
Attn: SV Docketing Dept.
1801 Page Mill Road
Suite 110
Palo Alto, CA 94304

EXAMINER	
KEMMERER, ELIZABETH	
ART UNIT	PAPER NUMBER
1646	

NOTIFICATION DATE	DELIVERY MODE
08/30/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

SV.Docketing@aporter.com

AUG 3 0 2011

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jeffrey P. Bernhardt
ARNOLD & PORTER LLP
1400 Page Mill Road, Building A
Palo Alto, CA 94304-1124

In re Application of	:	
GODDARD et al.	:	
Serial No.: 11/697,201	:	Decision on Petition
Filed: April 5, 2007	:	
Attorney Docket No.: GNE-0304 US R1C2	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.103(a) filed on September 2010 requesting suspension of action based on a showing of good cause pursuant to 37 C.F.R. §1.103(a).

BACKGROUND

This application was filed as a continuation of U.S. Patent Application Serial No. 10/700,992, filed November 3, 2003, now abandoned, which in turn is a continuation of U.S. Patent Application Serial No. 09/964,994, filed September 26, 2001, now U.S. Patent 6,740,520. U.S. Patent Application Serial No. 09/964,994 is a continuation-in-part claiming priority under 35 U.S.C. § 120 to PCT Application No. PCT/US01/06666 filed March 1, 2001, which claims priority under 35 U.S.C. § 119(e) to U.S. provisional Application Serial No. 60/191,015 filed on March 21, 2000.

To correct the priority claim in 09/964,994 (now issued U.S. Patent No. 6,740,520), Applicant filed a reissue application, U.S. Patent Application Serial No. 12/685,621, on January 11, 2010 along with an amendment to the specification to correct the priority claim. On February 14, 2011, Applicant filed a petition in 12/685,621 to accept a delayed claim to a benefit of priority to a prior filed international application pursuant to 37 C.F.R. § 1.78(a)(3) and a prior filed provisional application pursuant to 37 C.F.R. § 1.78(a)(6). Applicant has filed similar petitions in the instant application to accept a delayed claim to a benefit of priority to a prior filed international application pursuant to 37 C.F.R. § 1.78(a)(3) and a prior filed provisional application pursuant to 37 C.F.R. § 1.78(a)(6). In the latest decision on petition in the instant application, mailed February 4, 2010, the petition was dismissed. The decision indicated that

before the petition under 37 C.F.R. § 1.78(a)(3) can be granted in the instant application, petitioner must file a petition under 37 C.F.R. § 1.78(a)(3) in U.S. Patent Application Serial No. 09/964,994. Applicant reasons that, since there is no way of knowing when a decision will be reached on the petition filed in the 12/685,621 reissue application, there is a good and sufficient cause for a suspension of action in the instant application.

DISCUSSION

The petition and file history have been carefully considered.

In the final Office action mailed July 10, 2009, the rejection of claim 3-5 and 7 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,268,223 B2, and the rejection of claims 3-9 and 12 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,897,292 were maintained in view of the dismissed petitions to accept a delayed claim for priority. The rejections were also maintained in the advisory action mailed February 23, 2010. Accordingly, the prosecution in this case hinges, in part, on the petition to accept a delayed claim for priority. Since the last decision on petition indicated that Applicant must submit a petition to accept a delayed claim for priority in 09/964,994 (now represented by reissue application 12/685,621), and Applicant has filed this petition and is now awaiting a decision thereon, Applicant is correct in indicating that there is a good and sufficient cause for a suspension of action in the instant application.

DECISION

The petition is **GRANTED** for the reasons set forth above.

Accordingly, pursuant to applicant's request filed on September 28, 2010, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of six months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth C. Kemmerer whose telephone number is (571)272-0874. The examiner can normally be reached on Monday through Friday, 6:30 a.m. to 3:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol, Ph.D. can be reached on (571) 272-0835. 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.

/ECK/
24 August 2011

/Elizabeth C. Kemmerer/
Primary Examiner, Art Unit 1646

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APEX JURIS, PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE, WA 98125

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Marty Williams :
Application No. 11/697,294 : DECISION ON PETITION
Filed: April 5, 2007 :
Attorney Docket No. 10.18.08.USP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed May 1, 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 July 2, 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 with drawings, (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 Office of Patent Application Papers at their hotline 571-272-4000.

This application is being referred back to the Office of Patent Application Processing for pre-examination processing of the reply received June 21, 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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MAILED
DEC 08 2010
OFFICE OF PETITIONS

APEX JURIS PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE WA 98125

In re Application of :
Marty Williams :
Application No. 11/697,294 : DECISION ON PETITION
Filed: April 5, 2007 :
Attorney Docket No. 10.18.08.USP :

This is a decision on the petition under 37 CFR 1.53, filed September 10, 2010, to accord the above-identified application a filing date of April 5, 2007, with figures 13,14, 19 and 20 of the drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on April 5, 2007. However, on May 1, 2007, the Initial Patent Examination Division mailed Applicants a "Notice to File Missing Parts of Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, the statutory basic filing fee and figures 13, 14, 19 and 20 of the drawings were missing. In addition, applicant was instructed to submit $250 search fee, $100 examination fee, and $65 surcharge. This Notice set an extendable period for reply of two months. No reply having been received, the application

became abandoned on July 2, 2007. The Office mailed a Notice of Abandonment on January 8, 2008.

Applicant filed a petition to revive under 37 CFR 1.137(b) on June 21, 2010. With the petition, applicant submitted the $810 petition fee, and $865 (to cover the $75 statutory basic filing fee, $250 search fee, $100 examination fee, and $65 surcharge - totaling $490), together with re-labeled drawings, including figures 13, 14, 19 and 20. The petition was granted in a decision mailed on August 10, 2010. Thereafter, the Office mailed another "Notice to File Missing Parts of Nonprovisional Application" on August 24, 2010, again stating that the statutory basic filing fee and figures 13, 14, 19 and 20 were missing.

It is obvious from reviewing the record that the August 24, 2010 "Notice to File Missing Parts of Nonprovisional Application" was mailed in error. As set forth above, applicant paid the necessary fees and filed correctly labeled drawings on June 21, 2010.

Given the basis for granting the petition, the $400 petition fee has been refunded to petitioner's credit card.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of April 5, 2007, using the application papers received in the Office on that date and the 13 pages of corrected drawings as re-supplied on petition filed June 21, 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

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Mark SCHNEIDER, *et al.* :
Application No. 11/697,482 : DECISION ON PETITION
Filed: April 6, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **A1041/20039** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 1, 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 April 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-7253.

This application is being referred to Technology Center AU 3754 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.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

HOLLAND & KNIGHT LLP
10 ST. JAMES AVENUE
BOSTON MA 02116-3889

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Holland et al.	:	
Application No. 11/697,521	:	DECISION ON PETITION
Filed: April 6, 2007	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.137(B)
110425.00008	:	
Title: INDEPENDENT SUSPENSION	:	
SYSTEM	:	

This is a decision on the petition filed September 29, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 26, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 27, 2009. A notice of abandonment was mailed on January 26, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further indicated that a continuation application has been filed.

Office records confirm that continuation application no. 12/626,253 was filed on November 25, 2009.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application number 12/626,253.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] Accordingly, since the $ 1,110 extension of time submitted with the petition on September 29, 2010 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's credit card in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries

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1 See Rule 1.137(d).
2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/697,529	04/06/2007	William H. Eby	1421-287	6519

32905 7590 11/18/2010
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
11/18/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

NOV 18 2010

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
William H. Eby
Serial No.: 11/697,529
Filed: April 6, 2007
Attorney Docket No.: **1421-287**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed November 12, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on October 7, 2008, May 29, 2009 and November 5, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL T. INOUYE
1601 KANALUI ST.
HONOLULU HI 96816

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of :
Michael Inouye, et al. :
Application No.: 11/697,598 : ON PETITION
Filed: April 6, 2007 :
Attorney Docket No: :

This is a decision on the petition under 37 CFR §1.137(b), January 11, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the Notice of Non-Compliant Amendment mailed March 28, 2008. The notice set a shortened period for reply of one month from its mailing date. A proper response was not received within the allowable period, and the application became abandoned on April 29, 2008. A Notice of Abandonment was mailed January 11, 2009.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

A review of the Notice of Non-Compliant Amendment mailed March 28, 2008, reveals that it stated that the reply filed February 11, 2008 was not compliant with the requirements of 1.121 or 1.4. It further stated that: "[c]orrespondence does not address the rejection and prior art applied in Office action dated December 3, 2007. All signatures are required on the declaration. If one of the inventors is unavailable, a petition under 37 CFR 1.47 [must] be submitted providing pertinent facts showing the unavailability of the inventor." On May 1, 2008, petitioner filed a response to the Notice of Non-Compliant Amendment and a petition under 37 CFR 1.47. By a decision mailed September 5, 2008, the petition under 37 CFR 1.47 was dismissed. On October 17, 2008, applicants filed a properly executed declaration under 37 CFR 1.63. On January 8, 2009, a Notice of Abandonment was mailed indicating that reply filed October 17,2 008 does not constitute a proper reply to the non-final Office action mailed December 3, 2007.

The Notice of Abandonment requires clarification. The application became abandoned on April 29, 2008, for failure to file a timely and proper reply to the Notice of Non-Compliant Amendment mailed March 28, 2009. A "proper" reply would have consisted of an amendment to the claims in compliance with 37 CFR 1.121, or a continuation application, and am executed declaration under 37 CFR 1.63. Applicants should note that this reply needed to be received in the Office by April 28, 2008, to be considered timely, or be accompanied by a request for an extension of time under 37 CFR 1.136 if filed after April 28, 2008. The record does not reflect that the reply filed May 1, 2008, or the reply filed October 17, 2008, were accompanied by a request for an extension of time and the requisite fee which would have been necessary for the replies to be considered timely. Because a reply to the Notice of Non-Compliant Amendment was not received by April 28, 2008, the application became abandoned April 29, 2008.

No response to the Notice of Non-Compliant Amendment accompanied the instant petition, but such is required in order for the petition under 37 CFR 1.137(b) to be considered grantable. An amendment to the claims is noted as being filed on May 1, 2008; however, it does not appear that the reply filed May 1, 2008, is in compliance with 37 CFR 1.121. Enclosed a copy of the 37 CFR 1.121 which petitioner may consult in crafting a response to the non-final Office action and Notice of Non-Compliant Amendment.

NO ADDITIONAL PETITION FEE IS REQUIRED TO ACCOMPANY THE RENEWED PETITION.

The declaration under 37 CFR 1.63 filed October 17, 2008, is noted and made of record.

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

Question regarding amendment of the application should be directed to the examiner assigned to this application. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy----37 CFR 1.121

(d)(1)Notwithstanding the provisions of paragraph (b) of this section, no amendment other than canceling claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided in § 1.981 or as permitted by § 41.77(b)(1) of this title.

(2) Notwithstanding the provisions of paragraph (b) of this section, an amendment made after a final rejection or other final action (§ 1.113) in an *ex parte* reexamination filed under §1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 may not cancel claims where such cancellation affects the scope of any other pending claim in the reexamination proceeding except as provided in § 1.981 or as permitted by § 41.77(b)(1) of this title.

(e) An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an *ex parte* reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

(f) Notwithstanding the provisions of paragraph (e) of this section, no affidavit or other evidence can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided in § 1.981 or as permitted by § 41.77 (b)(1) of this title.

(g) After decision on appeal, amendments, affidavits and other evidence can only be made as provided in §§ 1.198 and 1.981, or to carry into effect a recommendation under § 41.50(c) of this title.

[24 FR 10332, Dec. 22, 1959; 46 FR 29183, May 29, 1981; para. (a) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (b) and (d) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

§ 1.117 [Reserved]

[Removed and reserved, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; added, 72 FR 46716, Aug. 21, 2007 (implementation enjoined and never became effective); removed, 74 FR 52686, Oct. 14, 2009, effective Oct. 14, 2009 (to remove changes made by the final rules in 72 FR 46716 from the CFR)]

§ 1.118 [Reserved]

[48 FR 2712, Jan. 20, 1983, effective Feb. 27, 1983; removed and reserved, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.119 [Reserved]

[32 FR 13583, Sept. 28, 1967; removed and reserved, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.121 Manner of making amendments in applications.

(a) *Amendments in applications, other than reissue applications.* Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.

(b) *Specification.* Amendments to the specification, other than the claims, computer listings (§ 1.96) and sequence listings (§ 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in this section.

(1) *Amendment to delete, replace, or add a paragraph.* Amendments to the specification, including amendment to a section heading or the title of the invention which are considered for amendment purposes to be an amendment of a paragraph, must be made by submitting:

(i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;

(ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may

be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived;

(iii) The full text of any added paragraphs without any underlining; and

(iv) The text of a paragraph to be deleted must not be presented with strike-through or placed within double brackets. The instruction to delete may identify a paragraph by its paragraph number or include a few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes.

(2) *Amendment by replacement section.* If the sections of the specification contain section headings as provided in § 1.77(b), § 1.154(b), or § 1.163(c), amendments to the specification, other than the claims, may be made by submitting:

(i) A reference to the section heading along with an instruction, which unambiguously identifies the location, to delete that section of the specification and to replace such deleted section with a replacement section; and;

(ii) A replacement section with markings to show all changes relative to the previous version of the section. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.

(3) *Amendment by substitute specification.* The specification, other than the claims, may also be amended by submitting:

(i) An instruction to replace the specification; and

(ii) A substitute specification in compliance with §§ 1.125(b) and (c).

(4) *Reinstatement of previously deleted paragraph or section.* A previously deleted paragraph or section may be reinstated only by a subsequent amendment adding the previously deleted paragraph or section.

(5) *Presentation in subsequent amendment document.* Once a paragraph or section is amended in a first amendment document, the paragraph or section shall not be represented in a subsequent amendment document unless it is amended again or a substitute specification is provided.

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (*e.g.*, additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (*e.g.*, Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a

withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, *i.e.*, without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

(d) *Drawings*: One or more application drawings shall be amended in the following manner: Any changes to an application drawing must be in compliance with § 1.84 and must be submitted on a replacement sheet of drawings which shall be an attachment to the amendment document and, in the top margin, labeled "Replacement Sheet". Any replacement sheet of drawings shall include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended. Any new sheet of drawings containing an additional figure must be labeled in the top margin as "New Sheet". All changes to the drawings shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper.

(1) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be included. The marked-up copy must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change to the drawings.

(2) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, must be provided when required by the examiner.

(e) *Disclosure consistency.* The disclosure must be amended, when required by the Office, to correct inaccuracies of description and definition, and to secure substantial correspondence between the claims, the remainder of the specification, and the drawings.

(f) *No new matter.* No amendment may introduce new matter into the disclosure of an application.

(g) *Exception for examiner's amendments.* Changes to the specification, including the claims, of an application made by the Office in an examiner's amendment may be made by specific instructions to insert or delete subject matter set forth in the examiner's amendment by identifying the precise point in the specification or the claim(s) where the insertion or deletion is to be made. Compliance with paragraphs (b)(1), (b)(2), or (c) of this section is not required.

(h) *Amendment sections.* Each section of an amendment document (*e.g.*, amendment to the claims, amendment to the specification, replacement drawings, and remarks) must begin on a separate sheet.

(i) *Amendments in reissue applications.* Any amendment to the description and claims in reissue applications must be made in accordance with § 1.173.

(j) *Amendments in reexamination proceedings.* Any proposed amendment to the description and claims in patents involved in reexamination proceedings must be made in accordance with § 1.530.

(k) *Amendments in provisional applications.* Amendments in provisional applications are not usually made. If an amendment is made to a provisional application, however, it must comply with the provisions of this section. Any amendments to a provisional application shall be placed in the provisional application file but may not be entered.

[32 FR 13583, Sept. 28, 1967; 46 FR 29183, May 29, 1981; para. (e), 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 FR 54604, Sept. 8, 2000, effective

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 24, 2011

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction for Appl. No.: 11697790 Patent No.: 7883573

CofC mailroom date: Mar. 17, 2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

_____
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.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/JA Lorengo/_____

____1731___

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/697,825	04/09/2007	Hiroshi ITO	306762US8	7142

22850 7590 12/22/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
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EXAMINER	
NGUYEN, JIMMY H	

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
12/22/2011	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
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www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
ITO, HIROSHI et al.
Application Serial No.: 11/697,825
Filed: April 09, 2007
For: **PORTABLE ELECTRONIC APPARATUS, USER INTERFACE CONTROLLING METHOD, AND PROGRAM**

DECISION
ON PETITION

This is a decision on the petition filed February 23, 2011 under 37 CFR 1.181 requesting that the objection to the drawings set forth by the examiner be withdrawn.

BACKGROUND

In the Final Office action of January 06, 2011, the examiner maintained the objection to the drawings under 37 CFR 1.83(a) based on the drawings must show every feature of the invention specified in the claims. Therefore, the feature, "a main body determination device" of claims 1-4 and 6 must be shown or the feature cancelled from the claims.

With respect to the drawing objection for failure to show "a main body determination device" as claimed in claims 1-4, and 6, petitioner states:

> "the element is illustrated by elements of Figure 2 taken together with Figures 7-10. Figure 2 is a block diagram of the circuit of the portable content player 1 including a control device 11, an acceleration sensor 21, and a sensor signal processing circuit 22."

REGULATIONS AND PRACTICE

35 U.S.C. 113. Drawings.

> The applicant shall furnish a drawing where necessary for the understanding of the subject matter to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Commissioner may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

37 CFR 1.81. Drawings required in patent application.

(a) The applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented; this drawing, or a high quality copy thereof, must be filed with the application. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.

(b) Drawings may include illustrations which facilitate an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views).

(c) Whenever the nature of the subject matter sought to be patented admits of illustration by a drawing without its being necessary for the understanding of the subject matter and the applicant has not furnished such a drawing, the examiner will require its submission within a time period of not less than two months from the date of the sending of a notice thereof.

(d) Drawings submitted after the filing date of the application may not be used to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

37 CFR 1.83. Content of drawing.

(a) **> The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.<

(b) When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

(c) Where the drawings in a nonprovisional application do not comply with the requirements of paragraphs (a) and (b) of this section, the examiner shall require such additional illustration within a time period of not less than two months from the date of the sending of a notice thereof. Such corrections are subject to the requirements of § 1.81(d).

OPINION

A careful review of the specification, claims, and drawings indicates as follows: Claim 1 identifies a main body determination device and a control device. Figure 2 shows a portable content player which includes an acceleration sensor 21, a sensor signal processing circuit 22, and a control device 11 among other elements. Clearly, Figure 2 shows the control device. However, none of the elements are labeled as a "main body determination device". Figure 7 is merely a waveform and Figures 8-10 are flowcharts showing the steps of operation of the portable content player. None of these figures show a "main body determination device" as claimed in claim 1. Turning to the specification, it is not seen where the specification mentions and describes what a main determination device is. Nor has petitioner identified where the term "main body determination device" is disclosed. At a minimum, this raises the question of whether the specification fails to provide proper antecedent basis for the claimed limitation of "a main body determination device". Petitioners argument that the "main body determination

device" as claimed is defined by the acceleration sensor 21, sensor signal processing unit 22, and control device 11 leads to confusion when taken in context with what is claimed since control device 11 is already defined in the claim as another element in addition to the main body determination device.

37 CFR 1.83(a) states "*The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).*" Clearly upon viewing the Figures, in particular Figure 2, none of the labeled boxes identifies a "main body determination device" as claimed. It is also noted 37 CFR 1.81(d) states, "*Drawings submitted after the filing date of the application may not be used to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.*"

Accordingly, the Petition is **Denied**.

The record shows a Request for Continued Examination (RCE) has been filed on April 01, 2011. The application file will be forwarded to the Tech Center to await examiner's action in response to RCE.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Richard K. Seidel, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 30 2011

OFFICE OF PETITIONS

DAVID J COLE
E INK CORPORATION
733 CONCORD AVE
CAMBRIDGE MA 02138-1002

In re Application of	:	
Karl R. Amundson, et al.	:	
Application No. 11/697,967	:	DECISION ON PETITION
Filed: April 9, 2007	:	
Attorney Docket No. H-481	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 17, 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) were obtained. Accordingly, the application became abandoned on March 18, 2011. The Notice of Abandonment was mailed March 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 $1,620, and (3) an adequate 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 2629 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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SEP 2 1 2010

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

In re Application of :
Birge, Todd :
Application No. 11/698,007 : DECISION ON PETITION
Filed: January 25, 2007 : TO WITHDRAW
Attorney Docket No. **TBGE-0002/32310-RA** : 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 23, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that customer number 23377 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 above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MR. TODD BIRGE**
1200 LEGEND RUN
ALPHARETTA GA 30005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of :

Todd Birge :
Application No. 11/698,007 : DECISION ON PETITION
Filed: January 25, 2007 : TO WITHDRAW
Attorney Docket No. **TBGE-0002/32310-RA** : 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 08, 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 Barry Kaplan on behalf of all attorneys of record who are associated with customer No. 30184. All attorneys/agents associated with the Customer Number 30184 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Todd Birge at the address indicated below. There is an outstanding Office action mailed March 03, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MR. TODD BIRGE .**
1200 LEGEND RUN
ALPHARETTA GA 30005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GENERAL ELECTRIC COMPANY
GE GLOBAL PATENT OPERATION
2 CORPORATE DRIVE, SUITE 648
SHELTON CT 06484

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Scott A. West	:	
Application No. 11/698,041	:	DECISION GRANTING PETITION
Filed: January 26, 2007	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 230806_1	:	

This is a decision on the petition, filed May 2, 2011, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to undersigned at (571) 272-3208.

/KOC/
Karen Creasy
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	11698062
Filing Date	26-Jan-2007
First Named Inventor	Yuji Setta
Art Unit	1722
Examiner Name	KATHLEEN DUDA
Attorney Docket Number	06-41446
Title	SEMICONDUCTOR DEVICE MANUFACTURING 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 2011.09.12 ☐ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Scott Elchert/
Name	Scott Elchert
Registration Number	55149

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : September 12,2011

In re Application of :

Yuji Setta

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11698062

Filed : 26-Jan-2007

Attorney Docket No : 06-41446

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed September 12,201,1to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 1722 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	11698062
Filing Date	26-Jan-2007
First Named Inventor	Yuji Setta
Art Unit	1722
Examiner Name	KATHLEEN DUDA
Attorney Docket Number	06-41446
Title	SEMICONDUCTOR DEVICE MANUFACTURING METHOD

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☒ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on 2012.04.02 ☐ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Scott Elchert/
Name	Scott Elchert
Registration Number	55149

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 2, 2012

In re Application of :

Yuji Setta

DECISION ON PETITION
UNDER CFR 1.313(c)(2)

Application No : 11698062

Filed : 26-Jan-2007

Attorney Docket No : 06-41446

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 2, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 1722 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/698,081	01/26/2007	Hoo-san Lee	Q97181	4998

23373 7590 05/06/2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
KATZ, VERA	

ART UNIT	PAPER NUMBER
1784	

NOTIFICATION DATE	DELIVERY MODE
05/06/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 6, 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Hoo-San Lee et al.	:	**DECISION ON PETITION**
Application No. 11698081	:	
Filed: 1/26/2007	:	
Attorney Docket No. Q97181	:	

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) January 26, 2007.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a)(2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFS filings), and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84(a)(2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/698,081	01/26/2007	Hoo-san Lee	Q97181	4998

7590 06/20/2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
KATZ, VERA	

ART UNIT	PAPER NUMBER
1784	

NOTIFICATION DATE	DELIVERY MODE
06/20/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 20, 2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Hoo-San Lee et al.	:	**DECISION ON PETITION**
Application No. 11698081	:	
Filed: 1/26/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. Q97181	:	***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 19, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/698,099	01/26/2007	Arun K. Sharma	P2006J013-US2	4569

27810 7590 09/23/2010

ExxonMobil Research & Engineering Company
P.O. Box 900
1545 Route 22 East
Annandale, NJ 08801-0900

EXAMINER	
MANOHARAN, VIRGINIA	
ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
09/23/2010	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

SEP 23 2010

el

Mailed :
In re application of
Arun K. Sharma
Serial No. 11/698,099
Filed: January 26, 2007
For: DISTILLATION TOWER BAFFLE

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO REVIEW THE RESTRICTION REQUIREMENT mailed December 24, 2009 and the action taken by the examiner in response to Applicant's election, as set out in the office action mailed February 26, 2010.

On December 24, 2009, a combination and subcombination restriction requirement was made by the examiner, with claims 1-20 listed with the invention of Group I and claims 21-43 listed with the invention of Group II. The examiner stated, the invention of Group I is drawn to a de-entrainment baffle for location in a distillation tower, the subcombination. And, the invention of Group II is drawn to a distillation tower, the combination.

On January 06, 2010, Applicant filed a response to the restriction requirement. In the response, Applicant elected "claims 21-43, directed to the distillation tower" with traverse. The traversal is made on the basis that the conclusion of distinctness is improper because the claims were improperly grouped. In the same response, Applicant requested reconsideration of the claims grouping, and noted that the groupings should be claims 1-20 and 22-43 for one group, and claim 21 for another group. In review of Applicant's traversal and reconsideration request, the examiner found Applicant's argument regarding the grouping of claims persuasive. This is indicated on page 2 of the office action mailed February 26, 2010.

In finding Applicant's traversal persuasive, the examiner proceeded with the examination of claim 21, drawn to a distillation tower. The examiner withdrew claims 1-20 and 22-43 from examination.

On June 30, 2010, the instant petition under 37 CFR 1.144 was filed to formally request REVIEW OF THE RESTRICTION REQUIREMENT mailed December 24, 2009 and the action taken by the Examiner in response to Applicant's election.

Applicant's position for review of the restriction requirement and the action taken by the examiner in response to Applicant's election is that the examiner has not shown that the separate groups are distinct.

DECISION

MPEP 806.05(c) states:

To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a *>serious< search burden >if restriction were not required< as evidenced by separate classification, status, or field of search. See MPEP § 808.02.

The inventions are distinct if it can be shown that a combination as claimed: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. When these factors cannot be shown, such inventions are not distinct.

MPEP 806.05(c) further states:

I. SUBCOMBINATION ESSENTIAL TO COMBINATION

AB sp / B sp No Restriction

Where a combination as claimed *> requires< the details of *>a< subcombination as separately claimed, there is >usually< no evidence that combination ABsp is patentable without the details of Bsp. The inventions are not distinct and a requirement for restriction must not be made or maintained, even if the subcombination has separate utility. This situation can be diagrammed as combination ABsp ("sp" is an abbreviation for "specific"), and subcombination Bsp. Thus the specific characteristics required by the subcombination claim Bsp are also required by the combination claim.

In review of the restriction requirement mailed 12/24/2009, it is found that the restriction requirement failed to establish that the inventions listed as Groups I-II are distinct from one another. While the restriction requirement correctly noted that the subcombination has a utility by itself or in other combination, it improperly noted that the combination as claimed does not require the particulars of the subcombination as claimed for patentability. In the instant case, the combination as claimed does require the particulars of the subcombination as claimed for patentability. The restriction requirement failed to establish a two-way distinctness between the combination and subcombination. In the absence of a showing of a two-way distinctness between the combination and subcombination, the restriction requirement issued is improper.

Accordingly, after review of the restriction requirement and the action taken by the examiner in response to Applicant's election, the petition to rescind the withdrawal of claims 22-43 from examination is **Granted**. The application is being forwarded to the examiner to

rejoin all of the non-elected claims and prepare a new non-final office action addressing all pending claims. Because Applicants have submitted an amendment in response to the office action mailed February 26, 2010, the non-final office action should also address said response.

/W. GARY JONES/
W. Gary Jones, Director
Technology Center 1700
Chemical and Materials Engineering

EXXONMOBIL RESEARCH & ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Benjamin Aaron Adler
ADLER & ASSOCIATES
8011 Candle Lane
Houston TX 77071

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of :
FREDERICKSON et al. :
Application No. 11/698,229 : DECISION ON PETITION
Filed: 01/25/2007 :
Attorney Docket No. D6490CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 18, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 19, 2009. On March 24, 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.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner on the reply received on April 10, 2010.

C. T. 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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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,768,530 :
Issue Date: August 3, 2010 :
Application No. 11/698,306 : NOTICE
Filed: January 25, 2007 :
Attorney Docket No. P32.12-0046 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FAY SHARPE LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of :
Cech, et al. :
Application No. 11/698,360 : NOTICE
Filed: January 26, 2007 :
Attorney Docket No. VOPT 200005US01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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John Ryznic
Florida Turbine Technologies, Inc.
Suite 110
100 Marquette Road
Jupiter FL 33458

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
John E. Ryznic, et al.	:	
Application No. 11/698,376	:	DECISION ON PETITION
Filed: January 26, 2007	:	
Attorney Docket No. FTT-180R	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 7, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 8, 2010. The Notice of Abandonment was mailed July 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3745 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **John Ryznic**
1701 Military Trail, Suite 110
Jupiter, FL 33458-7887

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/12/2011

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/698385 Patent No.: 7891750 B2

CofC mailroom date: 10/7/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

_____

_____

_____

_____

SPE Art Unit

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WEST & ASSOCIATES, A PC
2815 Mitchell Drive
Suite 209
WALNUT CREEK CA 94598

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Sposato :
Application No. 11/698,649 : DECISION ON PETITION
Filed: January 25, 2007 :
Attorney Docket No. SPOSA-01001US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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 September 26, 2008. 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). Accordingly, this application became abandoned on December 27, 2008. A Notice of Abandonment was mailed on January 21, 2009. Petitions under 37 CFR 1.181 were dismissed on June 16, 2009 and September 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $755 issue and publication fees of $300, (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. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for further processing.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: West & Associates, A PC
1255 Treat Blvd, 3rd Floor
Walnut Creek, CA 94597

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BRIAN ROGERS
OFFICE OF THE GENERAL COUNSEL
2401 SOUTH 31ST STREET
TEMPLE TX 76508

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of :
PATTERSON, Bruce Howard :
Application No. 11/698,711 : DECISION ON PETITION
Filed: January 25, 2007 :
Attorney Docket No. ALL0E-101u :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 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 November 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of August 18, 2010 is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BRIAN ROGERS**
504 UNIVERSITY LOOP EAST, ROOM 118
JONESBORO, AR 72401

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Fujitsu Patent Center
Fujitsu Management Services of America, Inc.
2318 Mill Road, Suite 1010
Alexandria VA 22314

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Eiichi Konno, et al.	:	
Application No. 11/698,854	:	DECISION GRANTING PETITION
Filed: January 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 06-52289	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 27, 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 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2825 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
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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WELLSTAT MANAGEMENT COMPANY. LLC
LEGAL DEPARTMENT
930 CLOPPER ROAD
GAITHERSBURG MD 20878

MAILED

MAR 08 2012

OFFICE OF PETITIONS

In re Application of:
Michael S. Roberts et al.
Application No. 11/698,947
Filed: January 29, 2007
Attorney Docket No. 18004-CP1C1D1

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the petition filed February 27, 2012, under 37 C.F.R. § 1.705 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted to 633 days.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED.**

Patentee's argue "This Patent is entitled to a term extension equal to the sum of: (A) Office delays in taking certain actions; and (B) the amount of time, in excess of three years from the filing date, that it took for the Patent to be issued. The Office erred by not counting in the "B Delay" the time period from Applicants' filing of a Notice of Appeal together with a Pre-Appeal Brief Conference Request until the mailing of the Notice of Allowance." Patentee argues further, "For the present Patent, "B delays" are calculated for each day past January 29, 2010, which is three years from the filing date, until the issue date of January 31, 2012, which is 732 days. However according to 37 C.F.R. § 1.703(b)(4), the Office did not count the 117 days from Applicants' filing of the Notice of Appeal and a Pre-Appeal Brief Request on May 27,2011 until the Notice of Allowance mailed on September 20, 2011. Therefore by subtracting these 117 days from the 732 days, the "B delay" is calculated by the Office to be a total of 615 days according to PAIR."

Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening

prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination).

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

In this instance a Notice of Appeal and Pre-Appeal Brief Conference Request were filed May 27, 2011. The Notice of Panel Decision from Pre-Appeal Brief Review which reopened prosecution was mailed July 1, 2011 followed by a notice of allowance mailed September 20, 2011. Thus there is no patent term adjustment for the periods between the filing of the Notice of Appeal and the mailing of the subsequent Office Action.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

G. L. LOOMIS &
ASSOCIATES, INC.
990 HIGHLAND DRIVE
SUITE 212Q
SOLANA BEACH CA 92075

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DEC 02 2011
OFFICE OF PETITIONS

In re Application of :
Bassem Georgy : DECISION ON PETITION
Application No. 11/699,173 :
Filed: January 29, 2007 :
Atty Docket No. **GEO-06002** :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 11, 2011.

The petition is **GRANTED**.

The instant application became abandoned effective October 13, 2011 for failure to file a proper reply to the final Office action mailed April 12, 2011. An amendment was filed on October 12, 2011; however, it was determined not to place the application in condition for allowance. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply in the form of a request for continued examination (RCE)(RCE fee) and submission (previously filed amendment)[1], petition fee and the required statement of unintentional delay (along with a general statement of unintentional delay). All requirements of 37 CFR 1.137(b) have been met.

[1] With respect to a submission, no box was checked on the RCE transmittal. Nonetheless, as stated on the RCE transmittal, the amendment filed after the final Office action is considered as a submission.

Technology Center AU 3775 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the request for continued examination (RCE) and submission (previously submitted after-final amendment) submitted on petition filed November 11, 2011.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CANTOR COLBURN LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Yoshio TAKEUCHI	:	
Application No. 11/699,178	:	DECISION ON PETITION
Filed: January 29, 2007	:	
Attorney Docket No. KOT-0264	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 26, 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 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 26, 2009 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 2861 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CURTIS, MALLET-PREVOST, COLT & MOSLE, LLP
101 PARK AVENUE
34TH FLOOR
NEW YORK NY 10178-0061

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Andre Sampaio :
Application No. 11/699,245 : DECISION ON PETITION
Filed: January 29, 2007 :
Attorney Docket No. 214855-000238 :

This is a decision on the petition, filed August 11, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 28, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 22, 2010.

Petitioner asserts that the Office action dated December 28, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of December 28, 2009. In this regard, the Office received a revocation power of attorney and change of address on August 18, 2008, prior to the mailing of the Office action of December 28, 2009. Office records were not timely updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed July 22, 2010, is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3727 for re-mailing the Office action of December 28, 2009, and resetting the period for reply.

/ Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

MAILED
OCT 05 2010
OFFICE OF PETITIONS

In re Application of :
Toshinobu Hatano, et al. :
Application No. 11/699,387 : DECISION GRANTING PETITION
Filed: January 30, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 071971-0921 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 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 September 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of:	:	
Ito et al.	:	
Pat. Num.: 7,672,920	:	
Issue Date: 03/02/2010	:	
Application No. 11/699,428	:	ON PETITION
Filing or 371(c) Date: 01/30/2007	:	
Atty. Docket No. 09812.0894-00000	:	

This is a decision on the Petition for Replacement of Original Letters Patent Under 37 C.F.R. § 1.182, filed April 6, 2010.

The petition is GRANTED.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer, in the Office of Data Management at (703) 308-9250, Ext. 119.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: Niomi Farmer
South Tower 8th floor, Room C-32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 20 2012
OFFICE OF PETITIONS

JOON PARK
1320 VIRGINIA AVE.
GLENDALE CA 91202

In re Application of	:	
Joon Park	:	
Application No. 11/699,642	:	DECISION GRANTING PETITION
Filed: January 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 10, 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 November 17, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Samuel Arbefeuille et al	:	
Application No. 11/699,701	:	DECISION GRANTING PETITION
Filed: January 30, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4221.1000-017	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 2, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 10, 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 1733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APR 11 2011

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent of Massand	:	DECISION ON REQUEST
Patent No. 7,895,276	:	FOR RECONSIDERATION OF
Issue Date: February 22, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/699,750	:	and
Filed: January 29, 2007	:	NOTICE OF INTENT TO ISSUE
Docket No. 11227.0002-00	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 22, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred and seven (407) 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 seven (407) days is **granted to the extent indicated herein.**

Patentee argues a 93 day reduction should be removed from the patent term adjustment for this application because, contrary to Office records, no Information Disclosure Statement (IDS) was filed on October 7, 2009. A review of the image file wrapper for this application reveals that no IDS was filed on October 7, 2009. Therefore, the 93 day reduction is being removed.

A review of patent term adjustment calculations for this application has revealed other errors.

The current patent term adjustment calculations fail to take into consideration an abandonment that occurred in connection with a Notice to File Missing Parts of Nonprovisional Application, mailed February 23, 2007. Pursuant to 37 CFR

1.704(c)(3), a period of reduction of 430 days, not 289 days should have been entered. 37 CFR 1.704(c)(3) provides in pertinent part that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> ...
> ...
>
> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed.

In this instance, the application became abandoned on April 24, 2007 for failure to respond to the Notice to File Missing Parts of Nonprovisional Application, mailed February 23, 2007, which set an extendable two month period for reply. On March 7, 2008, applicant filed a grantable petition to revive under the unintentional delay standard of 37 CFR 1.137(b). This petition was granted on June 26, 2008, which less than four months after the petition was filed. Accordingly, the period of reduction of 289 days is being removed and a period of reduction of 430 days is being entered (430 days for the period beginning on April 24, 2007, the date of abandonment, and ending on June 26, 2008, the date the Office mailed a decision granting applicant's Rule 137(b) petition).

The current patent term adjustment calculations fail to take into consideration the filing of two supplemental responses in

the form of Information Disclosure Statements, filed on July 22, 2009 and September 13, 2009, respectively.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed enter a reduction for an Information Disclosure Statement (IDS) filed on July 22, 2009. After applicant filed a reply on July 6, 2009 to a non-final Office action, applicant submitted a supplemental reply or paper in the form of an IDS on July 22, 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 July 22, 2009, reveals that applicant did not include a statement under 37 CFR 1.704(d).[1] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 16 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, July 7, 2009, and ending on the date that the IDS was filed, July 22, 2009. Accordingly, a period of reduction of 16 days will be entered.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed enter a reduction for an IDS filed on September 14, 2009. After applicant filed a reply on July 6, 2009 to a non-final Office action, applicant submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on September 14, 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 September 14, 2009, reveals that applicant did not include a statement under 37 CFR 1.704(d).[2] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 54 days pursuant to 37

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[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

[2] See footnote 1

CFR 1.704(c)(8), counting the number of days beginning on July 23, 2009, as a portion of the period is subsumed within the delay associated with the filing of the July 22, 2009 IDS, and ending on the date that the IDS was filed, September 14, 2009. Accordingly, a period of reduction of 54 days will be entered.

In light thereof, the correct patent term adjustment is one hundred ninety-six (196) days, which is 421 days of delay under 35 U.S.C. 154(b)(1)(A) + 389 days of delay under 35 U.S.C. 154(b)(1)(B) - 614 (430 + 16 + 54 + 114) days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred ninety-six (196)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,895,276 B2

DATED : **February 22, 2011** **DRAFT**

INVENTOR(S) : Massand

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 314 days

Delete the phrase "by 314 days" and insert – by 196 days--

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DAN DELAROSA, ESQ.
SUITE 24C
300 E 77TH ST.
NEW YORK NY 10021

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APR 18 2012

OFFICE OF PETITIONS

In re Application of
Robert L. Albright et al. :
Application No. 11/699,789 :
Filed: January 31, 2007 : ON PETITION
Attorney Docket No: P-0104US

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 9, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed September 27, 2011 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained prior to the abandonment of the application. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1761 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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BROOKS KUSHMAN P.C. /ORACLE AMERICA/ SUN / STK
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

In re Application of :
David Dice et al :
Application No. 11/699,802 : ON PETITION
Filed: January 30, 2007 :
Attorney Docket No. GLOBALLY INCREMENTED VARIABLE OR CLOCK BASED METHODS AND APPARATUS TO IMPLEMENT PARALLEL TRANSACTIONS

This is a decision on the petition, filed May 3, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 21, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Daniel V. Lafaver
1950 Zinnia St.
Golden CO 80401

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SEP 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Daniel Victor Lafaver	:	
Application No.: 11/699824	:	DECISION ON
Filing or 371(c) Date: 01/30/2007	:	PETITION
Title of Invention: RADIATOR GUARD FOR INSUCOZI	:	

This is a decision in response to the Petition Under 37 CFR 1.137(a) for Revival of an Application for Patent Abandoned Unavoidably, filed September 8, 2011.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 18, 2011. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 19, 2010. A Notice of Abandonment was mailed March 22, 2011.

The present petition

Applicant files the instant petition and asserts that the delay was unavoidable because the Office action was not received.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or

second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable

[will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Further as to item (3), a showing of non-receipt of an Office action may provide the basis for revival of an application based upon unavoidable delay.

The MPEP provides:

> The showing required to establish non-receipt of an Office communication must include a statement from the practitioner[3] describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.
>
> A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[3] Petitioner is advised that the decision to proceed without the services of a registered practitioner places Petitioner in the position of a registered practitioner, and does not relieve Petitioner of the responsibility of knowing and complying with the applicable statute, rules pf practice and Manual of Patent Examining Procedure.

such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

MPEP 711.03(c)

Analysis

Regrettably, the petition is not grantable at this time. The Office requirements for granting a petition to withdraw the holding of abandonment based upon non-receipt of an Office communication has been modified. ***The Office requires a statement from the petitioner 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. ***In addition, 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***.

Conclusion

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and/or file jacket.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Daniel V. Lafaver
1950 Zinnia St.
Golden CO 80401

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DEC 01 2011

OFFICE OF PETITIONS

In re Application of :
Daniel Victor Lafaver :
Application No.: 11/699824 : DECISION ON
Filing or 371(c) Date: 01/30/2007 : PETITION
Title of Invention: RADIATOR GUARD FOR :
INSUCOZI :

This is a decision in response to the renewed Petition Under 37 CFR 1.137(a) for Revival of an Application for Patent Abandoned Unavoidably, filed November 8, 2011, and supplemented November 17, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 18, 2011. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 19, 2010. A Notice of Abandonment was mailed March 22, 2011.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an Amendment; (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The application will be referred to Technology Center Art Unit 3781 for processing of the reply filed September 8, 2011, in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/699,826	01/30/2007	Yun-Long Li	20443-0038001 / INCY0038	7655

26161 7590 06/23/2011

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
CHANG, CELIA C	

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
06/23/2011	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):

PATDOCTC@fr.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

JUN 23 2011

Eifion Phillips, J. D., D. Phil.
FISH & RICHARDSON P.C.
P.O. Box 1022
Minneapolis MN 55440-1022

In re Application of :
Li et al :Decision on Petition
Serial No.: 11/699,826 :
Filed : 10 January 2007 :
Attorney Docket No.: 20443-0038001/INCY0038-001

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 23 May 2011 requesting reconsideration of the restriction requirement mailed 19 February 2010 and reconsideration of the finality of the Office action mailed 30 July 2010.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to restriction practice under Chapter 800.

On 19 February 2010, the examiner set forth a restriction requirement which divided claims 1-46 into five groups and required a further election of species.

On 21 May 2010, applicants elected Group I, and the compound of Example 8, with traverse.

On 30 July 2010, the examiner mailed to applicants a non-final Office action in which the traversal was considered, and the requirement was made final. Claims 7, 8, 40 and 42-47 were withdrawn from consideration under 37 CFR 1.142(b) as being directed to non-elected subject matter. Claims 1-6, 9-25, 29-39 and 41 were rejected under 35 U.S.C. 112, 1st paragraph for scope of enablement. Claims 1-6, 9-39 and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yao et al in view of Patani et al. Claims 1-6, 9-39 and 41 were rejected under

35 U.S.C. 103(a) as being unpatentable over Yao et al in view of Patani et a, further in view of US 2006/012219. A provisional double patenting rejection was also made.

On 30 November 2010, applicants filed a response which cancelled claims 7-10, 12-18, 20-25, 28 and 37 and added new claims 48-58.

On 17 February 2011, the examiner mailed to applicants an Office action. The PTOL-326 form and the body of the final action, fail to address new claims 48-58.

Disposition of Claims

4)☐ Claim(s) *1-6, 11, 19 and 29-47* is/are pending in the application.
4a) Of the above claim(s) *40 and 42-47* is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☐ Claim(s) *1-6, 11, 19, 29-39, 41* is/are rejected.

On 23 May 2011, applicants filed a response to the final Office action along with this petition.

DISCUSSION

The file history and petition have been considered carefully.

First, the petition raised concerns about the finality of the Office action mailed 17 February 2011. Given the fact that newly added claims 48-58 were not addressed in the final Office action, this request is persuasive.

Second, the petition points out that the examiner has placed Markush claims into groups for the purposes of restriction. Because applicant's claims are drafted in Markush-type format, the petition argues that they should be considered under the guidelines of MPEP 803.02. This is persuasive.

Further, it is noted that on 9 February 2011, the Office issued A Federal Register Notice entitled "Supplemental Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for treatment of Related Issues in Patent Applications." Page 7166 sets forth guidelines for the treatment of Markush-type claims:

> "Under principles of compact prosecution, the examiner should also require the applicant to elect a species or group of indistinct species for search and examination (i.e., an election of species). If the examiner does not find the species or group of indistinct species in the prior art, then the examiner should extend the search to those additional species that fall within the scope of a permissible Markush claim. In other words, the examiner should extend the search to the species that share a single structural similarity and a common use. The improper Markush claim should be examined for patentability over the prior art with respect to the elected species or group of indistinct species, as well as the species that share a single structural similarity and a common use with the elected

> species or group of indistinct species (i.e., the species that would fall within the scope of a proper Markush claim)."

In view of these new guidelines, the restriction requirement between the embodiments of the Markush claims is unwarranted and is hereby replaced with a provisional election of species requirement.

Lastly, applicant has argued that the examiner has not followed the election and examination practice for Markush claims. MPEP 803.02 requires extended examination of other embodiments. See:

> Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

DECISION

For these reasons, the petition filed under 37 CFR 1.181 on 23 May 2011 is **GRANTED** follows.

The finality of the Office action dated 17 February 2011 has been withdrawn. The response filed 23 May 2011 has been entered.

The intra-claim restriction requirement made between Groups I-IV made on 19 February 2010 has been withdrawn and replaced with an election of species requirement.

The application will be forwarded to the examiner to consider the papers filed 23 May 2011, and to prepare a supplemental Office action consistent with this petition decision. Markush claims are to be examined according to the guidance in MPEP 803.02 and the FR Notice of February 2011.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:
Ilegsusi, Olusegun Johnson	:
Serial No.: 11/699,935	: PETITION DECISION
Filed: January 30, 2007	:
Attorney Docket No.: 292102-1091	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed August 16, 2010. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Long V. Le
Supervisory Patent Examiner
Art Unit 3768

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

February 3, 2011

John S. Munday
The Kinney & Lange Building
312 South Third Street
Minneapolis, MN 55415-1002

Patent No.	: 7,767,318 B2
Ser. No.	: 11/699,967
Inventor(s)	: Kenny Cheng, et al.
Issued	: August 3, 2010
Docket No.	: PA0001532U-U73.12-186KL
Title	: **LASER FILLET WELDING**

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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of :
Jimmie Karlsson et al :
Application No. 11/700,097 : ON PETITION
Filed: January 31, 2007 :
Attorney Docket No. 69993-240462 :

This is a decision on the petition filed September 15, 2011 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed April 14, 2011, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 15, 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 formal drawings; (2) the petition fee; (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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5-10-2011

Patent No. : 7,927,584 B2
Serial No. : 11/700,127
Inventor(s) : Miguel A. G. Allende
Issued : January 31, 2007

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.

Respecting the alleged error on the title page, item [54] in the title, and Col. 1, it is the practice to exclude words such as "Improvements in", "New", "A", "Novel", etc., from the printed patent.

In view of the foregoing, your request 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 with the sum of $100.00

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(571-272-3422 or 703-756-1580)

O4372
Arent Fox LLP
1050 Connecticut Ave. NW
Washington, DC 20036

eJ

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MAILED
JAN 18 2012
OFFICE OF PETITIONS

Chih Feng Yeh
188 Old Castle Point Rd.
Wappingers Falls NY 12590-7069

In re Application of :
Shu :
Application No. 11/700,138 : DECISION ON PETITION
Filed: January 31, 2007 :
Attorney Docket No. TF11HMK009 :

This is a decision on the petition under 37 CFR 1.182, filed, November 29, 2011, to change the name of inventor "Shu Rén Chen" to –**Ren Chen Shu** --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3215. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Data Management for processing in the normal course of business.

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
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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
11/700,138	01/31/2007	3688	950	TF11HMK009	22	7

CONFIRMATION NO. 8452

CORRECTED FILING RECEIPT

79764
Chih Feng Yeh
188 Old Castle Point Rd.
Wappingers Falls, NY 12590-7069

OC000000052019330

Date Mailed: 01/17/2012

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)

Ren Chen Shu, Keelung City, TAIWAN;
Kuo Ching Chiang, Linkou Township, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 79764

Domestic Priority data as claimed by applicant

This application is a CIP of 09/731,564 12/06/2000 ABN

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 06/15/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/700,138**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

SYSTEM AND METHOD OF ADVERTISEMENT VIA MOBILE TERMINAL

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

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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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CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Application of :
Satish L. Kale et al. :
Application No. 11/700,191 : ON PETITION
Filed: January 31, 2007 :
Attorney Docket No. 08350.6599-00000 :

This is a decision on the petition filed December 1, 2010, under 37 CFR § 1.183 requesting waiver of 37 CFR § 1.64 as it relates to a concurrently filed petition under 37 CFR § 1.48(a)(2).

The petition under 37 CFR § 1.183 is **GRANTED**.
The petition under 37 CFR § 1.48 is **GRANTED**.

Petitioner seeks waiver of the rules such that the petition under 37 CFR 1.48 may be considered in the absence of the signatures on the required supplemental declaration of the originally named inventors. The application was filed naming Satish L. Kale and Richard G. Ingram and seeks under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Kevin J. Sergott.

37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;
(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
(3) the fee set forth in 37 CFR 1.17 (h); and
(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The declaration filed with the petition is signed by the added inventor with a statement that through error and without deceptive intent, the original application improperly set forth the inventorship. All of the original inventors have signed the supplemental declaration except joint inventor Kale.

The petition is also accompanied by the proper petition fees and a consent of assignee however, while petitioners assert that the supplemental declaration has been forwarded to Mr. Kale, they argue that to date they have not been successful in locating him.

The supplemental declaration has been reviewed and found in compliance with 37 CFR §§ 1.67 and 1.63. In view of the foregoing evidence provided, it is concluded that waiver of the requirement that the supplemental declaration be signed by joint inventor Kale is appropriate.

The petition bears proof that the 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. The inventorship of this application has been changed by the addition of Kevin J. Sergott as a joint inventor.

Petitioner is advised however that for the petition under 37 CFR 1.183, the petition fee is set at $400 and not $130 as indicated. Therefore, as authorized, petitioner's deposit account no. 06-0916 has been charged in the amount of $270 to make up the difference between that which was paid and that which is due.

This matter will be referred to the Office of Patent Application Processing for issuance of a corrected filing receipt, correction of the file and PTO PALM data to reflect the inventorship as corrected. Thereafter, the matter will be referred to the Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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MAR 10 2011

OFFICE OF PETITIONS

MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE, SC 29602-0447

In re Patent No. 7,876,203 :
Issue Date: January 25, 2011 :
Application No. 11/700,222 : NOTICE
Filed: January 30, 2007 :
Patentee(s): Steve Traylor, et. al. :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on January 7, 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**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :
Terrance M. SHARP :
Application No. 11/700,230 : NOTICE
Patent No. RE40,885 :
Filed: January 31, 2007 :
Attorney Docket No. HNKL0005-RI

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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Alexandria, VA 22313-1450
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DOWELL & DOWELL P.C.
103 ORONOCO ST.
SUITE 220
ALEXANDRIA, VA 22314

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of :
Dong Yi :
Application No. 11/700,259 : ON PETITION
Filed: January 31, 2007 :
Attorney Docket No. 15671 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 19, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2010.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the extension of time submitted with the petition on August 30, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will not be charge to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2626 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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FEB 10 2011

OFFICE OF PETITIONS

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

In re Application of	:	
Stephens, Malcolm B.	:	
Application No. 11/700,307	:	ON PETITION
Filed: January 31, 2007	:	
Attorney Docket No. 4316-070024	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and an Information Disclosure Statement, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3644 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/9/08

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 11700346 Patent No.: 7311590

√ 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)
South Tower - 9A22
Palm Location 7580

Valerie Jack
Certificates of Correction Branch
703-308-9390 ext. 114

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: _____

_____

_____

_____

_____

Joseph J. Hail, III
SPE

3723
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: 12/23/11

Patent No. : 7701055 B2
Ser. No. : 11/700,349
Inventor(s) : **Wu , et al.**
Issued : **April 20, 2010**
Title : **LIGHT EMITTER ASSEMBLY**
Docket No. : **MA105-006**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:

Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:

(571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703)756-1580

Wells St. John P.S.
601 West First Avenue
Suite 1300
Spokane WA 99201-3828

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 28, 2011

TO SPE OF : ART UNIT 2612 SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/700,431 Patent No.: 7,791,468 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the insertion of the disclaimer notice be approved as requested by applicant?

See COCIN dated 4-20-2011

Antonio Johnson

_____

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ❑ **Approved** — **All** changes apply.
- **X Approved in Part** — Specify below which changes **do not** apply.
- ❑ **Denied** — State the reasons for denial below.

Comments: Request to insert "Front page (*) Notice of terminal disclaimer" does not apply, because TD filed 4/10/10 was disapproved due to Power of Attorney list comprising more than 10 practitioners (37 CFR 1.32 C), and practitioners associated with customer # 23552 have not been appointed in the current application. A power of attorney and the re-filing of the TD are required.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE_/Benjamin C. Lee/_____ Art Unit ___2612_____

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of :
Buschbeck, et al. :
Application No. 11/700,468 : DECISION
Filed: 31 January, 2007 :
Attorney Docket No. IMSN-105US1

This is a decision on the petition filed on 22 January, 2010, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE: In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

[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. 11/700,468

The instant application is released to IFW storage 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

[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

MAILED
FEB 06 2012
OFFICE OF PETITIONS

Law Offices of Stephen W. Barns, LLC
166 Knoll Drive
Granville OH 43023

In re Application of :
Michael P. DORSEY : ON PETITION
Application No. 11/700,597 :
Filed: January 31, 2007 :
Atty. Docket No.: FR-001

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the final Office action mailed January 25, 2010 (Office action), which set a shortened statutory period of reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned April 26, 2010. A Notice of Abandonment was mailed August 3, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a response to the Office action mailed January 25, 2010, a Request for Continued Examination (RCE), and RCE fee, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 1797 for consideration of the filed Response.

Robert DeWitty
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

Jason Lee De Francesco (Individual)
6212 29th Street East
Bradenton FL 34203

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
WALTERS, Daniel	:	
Application No. 11/700,603	:	DECISION DISMISSING PETITION
Filed: January 31, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 31288.43226	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 11/452,834, filed June 14, 2006.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the specification and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that

each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHEAL C. POPHAL
EVEREADY BATTERY COMPANY INC
25225 DETROIT ROAD
P.O. BOX 450777
WESTLAKE, OH 44145

MAILED

JAN 28 2011

OFFICE OF PETITIONS

In re Application of :
Richard L. Bouffard et al :
Application No. 11/700,638 : ON PETITION
Filed: January 31, 2007 :
Attorney Docket No. SP-1130.2 US

This is a decision on the petition, filed January 27, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 27, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1726 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

FEB 0 8 2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEITH B. WILLHELM
6266 Del Monte
Houston, TX 77057

In re Application of
Lawrence C. Wood
Application No. 11/700,663
Filed: January 31, 2007
For: Improved Limited Radon Transformations For Removal of Noise From Seismic Data

PETITION TO ACCEPT COLOR DRAWINGS/PHOTOGRAPHS

This is a decision on applicant's petition under 37 CFR 1.84(A)(2) Filed January 31, 2007 to accept color drawings/photographs.

For the acceptance of color drawings in accordance with 37 CFR 1.84(A)(2), a petition is required which fulfills the following requirements:

(i) The appropriate fee set forth in 1.17(h),
(ii) three (3) sets of color drawings/photographs, and
(iii) amending the specification to contain the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings: "The file of this patent contains at least one drawing executed in color photography. Copies of this patent with color photographs will be provided by the Patent and Trademark Office upon request and payment of necessary fee."

Having met the requirements of 37 CFR 1.84(A)(2), the petition is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack W. Keith at the number listed below.

Jack W Keith
Supervisory Patent Examiner
Art Unit 3663
(571) 272-6878

jwk: 2/8/11

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

Wagner, Anderson & Bright, PC
3541 Ocean View Blvd.
Glendale, CA 91208

MAILED

AUG 25 2011

OFFICE OF PETITIONS

In re Application of :
Scott D. Redmond :
Application No. 11/700,745 : ON PETITION
Filed: January 30, 2007 :
Attorney Docket No. 02659-0007PXC :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2011, to revive the above-identified application.

The above application became abandoned for failure to timely file a response to the non-final Office action mailed September 15, 2009. A Notice of Abandonment was mailed on April 13, 2010.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and a terminal disclaimer under 37 CFR 1.321 with fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1797 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

MAILED

MAR 2 1 2011

OFFICE OF PETITIONS

In re Application of :
Minh Doan :
Application No. 11700793 : DECISION
Filing or 371(c) Date: 01/31/2007 : ON PETITION
Attorney Docket Number: 2248005US1AP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 25, 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 May 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee; and an Amendment as the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center AU 2618 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: CHRISTOPHER A. MITCHELL
350 S. MAIN STREET, STE. 300
ANN ARBOR, MI 48104

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Hidetoshi FUJIMOTO :
Application No. 11/700,934 : DECISION ON PETITION
Filed: February 1, 2007 :
Attorney Docket No. 01-1365 :

This is a decision on the renewed petition to expunge, filed June 3, 2010, that is being treated under the provisions of 37 CFR 1.59(b).

The petitioner is requesting that the Supplemental Information Disclosure Statement and associated papers filed on February 10, 2009 be expunged from the record in the above identified patent application.

As set forth in MPEP § 724.05, paragraph III, the granting of a petition to expunge information submitted in an incorrect application will be governed by "the factors enumerated in paragraph II of this section in regard to the unintentional submission of information". The instant petition satisfies the relevant factors from those listed in MPEP § 724.05, paragraph II. Petitioner states 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.

In view of the above, the petition to expunge has been **GRANTED**.

The documents requested to be removed have been expunged from the instant application. As of mailing date of this decision, the corresponding images of the expunged documents in IFW have been "closed" thereby removing them from a list of publicly available documents associated with this application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner,
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF DALE B. HALLING
3595 FOUNTAIN BOULEVARD SUITE A2
COLORADO SPRINGS CO 80910

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Joseph Raymond Arndt
Application No. 11/701,000
Filed: February 1, 2007
Attorney Docket No. ARJ0701

: DECISION ON PETITION

This is a decision on the petitions filed August 24, 2010, under 37 CFR 1.137(a), and under 37 CFR 1.137(b), to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The petition under 37 CFR 1.137(b) is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Nonfinal Office action mailed April 1, 2009, which set a shortened statutory period for reply of 3 THREE MONTHS from the mail date of the Office action. No extensions of time under the provisions of 37 CFR 1.136(a), were obtained. A Notice of Abandonment was mailed on October 6, 2009.

As to the petition under 37 CFR 1.137(a), the Office is not in receipt of the required petition fee. Petitioner's attention is directed to the below:

MPEP 711.03 (c) states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and **(B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.**

Further, no showing to substantiate an unavoidable delay matter was provided.

In view of the above, the petition under 37 CFR 1.137(a) is dismissed.

However, the petition under 37 CFR 1.137(b) to revive the above-identified application, is **GRANTED**.

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 petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office Action mailed April 1, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3641 for consideration by the examiner of the reply received August 24, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/701,041	01/31/2007	Christopher Reid Error	OMN12377	4185

7590 12/14/2011

M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
Robert C. Kowert
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER	
LIN, WEN TAI	

ART UNIT	PAPER NUMBER
2454	

NOTIFICATION DATE	DELIVERY MODE
12/14/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

December 12, 2011

M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
Robert C. Kowert
P.O. BOX 398
AUSTIN TX 78767-0398

In re Application of	:	
ERROR, CHRISTOPHER REID	:	**DECISION ON PETITION**
Application No. 11/701,041	:	
Filed: 01/31/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. OMN12377	:	***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) January 31, 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.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/701,163	01/31/2007	Edward K.Y. Jung	17906.8.8	8779

83722 7590 11/30/2011

Workman Nydegger / INVENTION SCIENCE FUND
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

EXAMINER	
UNDERDAHL, THANE E	
ART UNIT	**PAPER NUMBER**
1657	
MAIL DATE	**DELIVERY MODE**
11/30/2011	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.

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NOV 3 0 2011

Marcus S. Simon
WORKMAN NYDEGGER
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1000 EAGLE GATE TOWER
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SALT LAKE CITY UT 84111

In re Application of	:
Jung et al	:Decision on Petition
Serial No.: 11/701,163	:
Filed : 31 January 2007	:
Attorney Docket No.: 17901.8.8	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 30 September 2011 requesting reconsideration of the restriction requirement mailed 10 December 2009.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to consideration under restriction practice of MPEP Chapter 800.

On 2 September 2009, the examiner set forth a first restriction (lack of unity) requirement which divided the claims into three groups.

On 1 October 2009, applicants elected Group I with traverse.

On 10 December 2009, the examiner set forth a second restriction requirement as a substitute for the first requirement. The second requirement relied upon US restriction practice to divide the claims into 28 groups.

On 26 January 2010, applicants elected Group V, with traverse.

V. Claims 1, 15, 19, 22, 24-27, 31, 34 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more of the cells or tissues are genetically engineered, classified in 435, subclass 174.

On 14 April 2010, the examiner considered the traversal and made the restriction requirement FINAL. The examiner prepared a first Non-final Office action on the merits. Rejections were set forth for claims 1, 15, 19, 22, 24-27, 31 and 34. The remainder of the claims were withdrawn from further consideration.

On 21 July 2010, in the 2nd non-final Office action on the merits, the examiner clarified the restriction requirement, by pointing out various linking claims and possible opportunities for rejoinder, should the elected invention become allowable. The traversal was re-considered and the requirement made FINAL. Rejections were set forth for claims 1, 15, 19, 22, 24-27, 31 and 34.

On 30 March 2011, the examiner prepared an Office action on the merits. Final rejections were set forth for claims 1, 15, 19, 22, 24-27, 31, 34 and 115.

On 26 September 2011, applicants filed a response to the Office action, and a notice of appeal along with this petition.

An advisory action was mailed on 24 October 2011 containing a response to the after final amendment and request for consideration.

DISCUSSION

The file history of the instant application has been considered carefully. The claimed subject matter is diatoms used as an encapsulation material similar to bone or plastic, their method of manufacture and use. The petition questions the merits of the second restriction requirement dated 10 December 2011. Independent claims 1, 99 and 107 are shown below along with relevant dependent claims:

1. (PREVIOUSLY PRESENTED) A device comprising:

a diatom cage structured to at least partially surround one or more living cells or tissues, the diatom cage including paired frustules that are substantially sealed by one or more artificial closure elements.

99. (WITHDRAWN) A method comprising:
identifying one or more biologically active molecules; and
providing the one or more biologically active molecules to an implantable diatom device.

102. (WITHDRAWN) The method of claim 99, further comprising:
identifying one or more semi-permeable components; and
providing the one or more semi-permeable components to the implantable diatom device.

107. (WITHDRAWN) A method of assembling a device comprising:
identifying one or more diatoms;
identifying one or more semi-permeable components; and
at least partially enclosing the one or more semi-permeable components within one or more frustules of the one or more diatoms.

109. (WITHDRAWN) The method of claim 107, further comprising:
identifying one or more biologically active molecules; and
providing the one or more biologically active molecules to the device.

Reconsideration of the restriction of product claims into Groups I to XXVII.

The petition requests reconsideration of the groupings. Here, the restriction was required between features which are recited in claims depending, directly or indirectly, upon independent claim 1. In the second restriction requirement, claim 1 had been placed in 26 groups. On its face, this sort of grouping is improper for two reasons. First, it does not permit applicants to have the full scope of their generic claims examined in one application. Second it creates unresolvable double patenting situations, should the elected invention go on to issue and 25 divisional applicants be filed, each drawn to claim 1. See MPEP 804.01.

Next, the petition questions the rationale behind the requirement. The groups were identified as being related as combination and subcombinations. The examiner reasoned that "each group has distinct structural characteristics listed in the description above that distinguishes them from the other such as some groups have immunogenic components or non-immunogenic components or a redesigned to partially prevent or enhance restructuring of the subject that are implanted. These structural dissimilarities often have opposite characteristics such as alternative configurations of the semi-permeable component and the biologically active molecules that render them separate in the art. The alternative configurations and characteristics of each subcombination has a separate utility in the art such as enhancing or not enhancing in the implanted area." See page 8 of the second restriction requirement.

This rationale does not address why each of the 26 groups are considered patentably distinct from each other nor is it consistent with the test for distinction between combination and subcombination inventions set forth in MPEP 806.05(c).

Reconsideration of the restriction required between "combination and subcombinations"

The test for distinct between the combination (claim 1, for example) and the subcombination of claim 34, (placed in Group V) requires the examiner to show that the combination as claimed does not require the particulars of the subcombination, as claimed. MPEP 806.05(c) uses the AB for the combination and B for the subcombination. In situations where restriction may be permitted, the "B" subcombination is broader in the combination than it is claimed in the subcombination. In situations where restriction is not proper, the "B" subcombination is of same scope whether in an independent subcombination claim or in a dependent combination claim. In this claim set, Claim 1 is the subcombination claim (B specific) and dependent claim 34, for example, would be considered the combination claim, which depends from and requires all the limitations of the subcombination claim. Similar problems arise for the restriction between other combination/subcombination type claims.

1. (PREVIOUSLY PRESENTED) A device comprising:

a diatom cage structured to at least partially surround one or more living cells or tissues, the diatom cage including paired frustules that are substantially sealed by one or more artificial closure elements.

34. (ORIGINAL) The device of claim 1, wherein the one or more living cells or tissues are genetically engineered.

Reconsideration of the restriction required between different "subcombinations"

The test for restriction between two subcombinations is set forth in MPEP 806.05(d) and it requires that the inventions must not overlap in scope. The restriction between Group V and VI, as one example, does not comply with the criteria.

V. Claims 1, 15, 19, 22, 24-27, 31, 34 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more of the cells or tissues are genetically engineered, classified in 435, subclass 174.

VI. Claims 1, 15, 19, 22, 24-27, 31, 35 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more of the cells or tissues produce biologically active molecules, classified in 435, subclass 177

The restriction between Group V and VI is based upon the limitations of claims 34 and 35, respectively, which are not mutually exclusive. Claim 34 describes a mechanism which reads

upon the production of a biologically active molecule while claim 35 is directed to production of a biologically active molecule, via any mechanism.

34. (ORIGINAL) The device of claim 1, wherein the one or more living cells or tissues are genetically engineered.

35. (WITHDRAWN) The device of claim 1, wherein the one or more living cells or tissues produce one or more biologically active molecules.

The specification provides for modifications relating to biological materials and/or genetic modifications. (See page 17, lines 20-25, page 19, lines 15-16; and page 19, lines 26-30). In particular , the specification teaches that "in some embodiments, the one or more living cells or tissues produce, release, express and/or deliver one t more biologically active molecules." (See page 22, lines 7-10). Restriction between Claim 34 and 35 is counter to MPEP 806, which states [w]"here inventions are related as disclosed but are not distinct as claimed, restriction is never proper." Similarly, other groups are not mutually exclusive because the specification provides for diatom skeleton or diatom cages which are partially non-immunogenic, and/or partially recognized as self. (See page 17, lines 10-19).

As another example, the restriction between Group XVI and XVII do not allow for the embodiment where the biologically active molecules associated with both the exterior and the interior of the semi-permeable component.

XVI. Claims 1, 52, 75, and 76 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more biologically active molecules are associated with the exterior of the semi-permeable component, classified in class 435, subclass 395.

XVII. Claims 1, 52, 75, and 77 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more biologically active molecules are associated with the interior of the semi-permeable component, classified in class 435, subclass 395.

The restriction between Group XVIII and XIX is unwarranted because it does not allow for the embodiment where the semipermeable component produces and releases the biologically active component.

XVIII. Claims 1, 52, 75, and 78 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more biologically active molecules are produce by the semi-permeable component, classified in class 435, subclass 395.

XIX. Claims 1, 52, 75, and 80 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more biologically active molecules are released by the semi-permeable component, classified in class 435, subclass 177.

The division between Group XIX and XX is unwarranted because it does not allow for embodiment where the semi-permeable component releases the biologically active molecule.

XIX. Claims 1, 52, 75, and 80 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues wherein one or more biologically active molecules are released by the semi-permeable component, classified in class 435, subclass 177.

XX. Claims 1, 82 and 83, 91 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues that further comprises a semi-permeable component that at least partially encloses the diatom skeleton, classified in class 435, subclass 174.

The division between Group XXII and XXIII cannot be maintained because it does not allow for embodiment where the semi-permeable component is partially sounded by and partially surrounds the diatom skeleton.

XXII. Claims 1, 82, 87 and 89, 91 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues that further comprises a semi-permeable component that at least partially encloses living cells or tissues and is at least partially surrounded by the diatom skeleton, classified in class 435, subclass 177.

XXIII. Claims 1, 82, 87 and 90, 91 are drawn to a device comprising: a diatom skeleton structured to at least partially surround one or more living cells or tissues that further comprises a semi-permeable component that at least partially encloses living cells or tissues and at least partially surrounds the diatom skeleton, classified in class 435, subclass 395.

Similar problems concerning overlap in scope of the claimed subject matter is found amongst other groups. Further, it is noted that claim 2 is missing from all groups.

2. (ORIGINAL) The device of claim 1, wherein the device is implantable.

In the second non-final Office action dated 21 July 2010, the examiner attempted to remedy the situation by identifying various linking claims for the combination/subcombinations:

> The Combination/Subcombinations Identified in the Restriction requirement on 12/10/2009 are linked with the following claims:
>
> - Groups I-XXVI are linked via claim 1;
> - Groups I-X are linked via claims 1 and 15;
> - Groups XI-XIX are linked via claims 1 and 52;
> - Groups XII-XIV are linked via claims 1, 52 and 62;
> - Groups XVI-XIX are linked via claims 1, 52 and 75;
> - Groups XX-XXVI are linked via claims 1 and 82;
> - Groups XXII-XXIII are linked via claims 1, 82 and 87.

This nested set of linking claims presents a problem: from the file history, it is not readily apparent as to what claims belong in which group and which claims may be filed in a divisional application. This is counter to MPEP 814, which states:

> "The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121 *Geneva Pharms. Inc. v. GlaxoSmithKline PLC*, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01."

Additionally, some of groups are divided based upon an intended use of the product and result in subject matter which would overlap in scope. See, for example,

> Group X, directed to a device comprising autologous, allogenic or xenogeneic cells, with respect to the subject in which it is intended to be implanted, versus
>
> Group XI, directed to a device comprising immunogenic cells with respect to the subject in which it is intended to be implanted versus
>
> Group XII, directed to a device comprising non-immunogenic cells with respect to the subject in which it is intended to be implanted.

The xenogeneic cells required by Group X, would be from different species as the subject and as such, would generally be immunogenic when implanted into the subject, as required by Group XI. Further, the autologous cells required by Group X involves transplanting cells from one part of the body to another with in the same subject, and as such, would generally be non-immunogenic, as required by Group XII. Other groups have similar overlaps of subject matter. For these reasons, the restriction requirement made between Groups I-XXVII is unwarranted.

Reconsideration of the restriction of method claims into Groups XXVII and XXVIII.

On 10 December 2009, the examiner placed independent Claims 99 and 107 into two groups as follows:

> XXVII. Claims 99-106 are drawn to a method comprising: identifying one or more biologically active molecules; and providing the one or more biologically active molecules to an implantable diatom device, classified in class 435, subclass 174.
>
> XXVIII. Claims 107, 109, 110 are drawn to a method of assembling a device comprising: identifying one or more diatoms; identifying one or more semi-permeable components; and at least partially enclosing the one or more semi-permeable components within one or more frustules of the one or more diatoms, classified in class 435, subclass 177.

Independent Claims 99 and 107 are both directed to methods of making a diatom. Claim 102 depends from Claim 99 and was placed in Group XXVII, yet requires a semi-permeable component, which reads upon Group XXVIII. Similarly, Claim 109 depends from Claim 107 and was placed in Group XXVIII, yet requires a biologically active molecule which reads upon Group XXVII. As such, the subject matter overlaps and the restriction between Groups XXVII and XXVIII is unwarranted.

Applicants have requested reconsideration of the restriction required between the product of Claim 1 and the method of making the product of claim 1. The petition asserts that the examiner

has not established reasons for restriction between the product and process inventions, *as claimed*. MPEP 806.05(f) provides that a "process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process *as claimed* is not an obvious process of making the product and the process as *claimed* can be used to make another materially different product; or (B) that the product *as claimed* can be made by another materially different process."

In this application, instead of providing an alternative, materially different, non-obvious, method for making the product, the examiner provided an alternative way of using the product of claim, i.e., using the device of claim 1 as a filter to isolate compounds that pass through the semi-permeable component. The petition is correct that the restriction has not addressed the inventions, *as claimed*. Accordingly, the restriction between product and process of making the product is unwarranted.

DECISION

The petition filed under 37 CFR 1.144 on 30 September 2011 is **GRANTED**.

The restriction requirement between Groups I-XXVIII set forth on 10 December 2009 has been withdrawn.

The finality of the Office action mailed 30 March 2011 has been withdrawn.

The application will be forwarded to the examiner to consider the papers filed 30 September 2011 and the Information Disclosure Statement filed 21 November 2011 in a manner consistent with this petition decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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Date: 04/04/11

Patent No. : 7903763 B2
Ser. No. : 11/701,164
Inventor(s) : **Andrle , et al.**
Issued : **March 8, 2011**
Title : Bandwidth selection for FM applications
Docket No. : **854263.435**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

LMN

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Patent No. 7,903,763 :
Issue Date: March 8, 2011 :
Application No. 11/701,164 : ON PETITION
Filed: January 31, 2007 :
Attorney Docket No. 854263.435 :

This is a decision on the petition filed May 19, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the 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.

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GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 08/04/2010

Applicant	: Antonino Conte	: DECISION ON REQUEST FOR
Patent Number	: 7649786	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/701,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **268** 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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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
JUNG, et al :
Application No. 11/701,167 : DECISION ON PETITION
Filed: January 31, 2007 : TO WITHDRAW
Attorney Docket No. QQ1-0190US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARNOLD M. DE GUZMAN
DE GUZMAN & ASSOCIATES, PC
5276 HOLLISTER AVENUE, SUITE 160
SANTA BARBARA CA 93111

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Patent Number: 7,620,851
Issue Date: 11/17/2009
Application Number: 11/701,181
Filing or 371(c) Date: 01/31/2007
Attorney Docket Number: 10009.000111

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on April 18, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 3, 2010

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11701196 Patent No.: 7803766

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

_____
Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X Approved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Jon P Weber/ for Cecilia Tsang — **SPE**

1657 for 1654 — **Art Unit**

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Commissioner for Patents
United States Patent and Trademark Office
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Date: 06/13/11

Patent No. : **7,951,428 B2**
Ser. No. : **11/701,200**
Inventor(s) : **Hoerr , et al.**
Issued : **May 31, 2011**
Title : Electrospray coating of objects
Docket No. : **110.0290 0101**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

LMN

UNITED STATES 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 29 2011
OFFICE OF PETITIONS

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

In re Patent No. 7,951,428 :
Application No. 11/701,200 :
Filed: January 31, 2007 : ON PETITION
Issued: May 31, 2011 :
Attorney Docket No. 110.0290 0101 :

This is a decision on the petition filed July 13, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Additionally, the required $130.00 surcharge fee and $100.00 Certificate of Correction fee which will be charged to petitioner's deposit account as authorized July 13, 2011.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Receipt date: 08/20/2010 11701223 - GAU: 2629

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-20-10

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/701223 Patent No.: 7714818

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Amare Mengistu/ 2629

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUGH D. JAEGER, ESQ.
HUGH D. JAEGER, P.A.
P.O. BOX 432
WAYZATA MN 55391-0432

MAILED
NOV 17 2010
OFFICE OF PETITIONS

In re Application of	:	
Prager et al.	:	
Application No. 11/701,235	:	ON PETITION
Filed: February 1, 2007	:	
Attorney Docket No. BURBA P630	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 25, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3777 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT&T LEGAL DEPARTMENT – JW
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Patrick P. Lannone, et al. :
Application No. 11/701,265 : DECISION ON PETITION
Filed: February 1, 2007 :
Attorney Docket No. 2006-0024 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

In view of the above, the petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 18, 2009, which set a shortened statutory period for reply of three (3)

months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to 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 2613 for appropriate action by the Examiner in the normal course of business on the reply received July 7, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN J. BEACH
WOLFF & SAMSON, PC
ONE BOLAND DRIVE
WEST ORANGE, NJ 07052

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Commissioner for Patents
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OCT 29 2010

OFFICE OF PETITIONS

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

In re Patent No. 6,993,928	:	
Issue Date: February 7, 2006	:	
Application No. 10/498,057	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. 2450-1013	:	

This is a decision on the petition filed September 22, 2010, which will be treated as a petition under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 8, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Osman Akkad	:	
Application No. 11/701,270	:	DECISION ON PETITION
Filed: January 31, 2007	:	
Attorney Docket No. 026685-000100US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Order to Show Cause mailed August 12, 2010, which set a shortened statutory period for reply of thirty (30) days. Accordingly, the application became abandoned on September 9, 2010. A Notice of Abandonment was mailed October 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Order to Show Cause, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Patent Legal Administration for further consideration in accordance with this decision on petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Andrew J. HAZELTON, et *al.* :
Application No. 11/701,378 : DECISION GRANTING PETITION
Filed: February 2, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **125148.04** :

This is a decision on the 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 October 14, 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 2882 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

Decision Date : April 22,2011

In re Application of :

Andrew Hazelton

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11701378

Filed : 02-Feb-2007

Attorney Docket No : 125148.04

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 22,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2882 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	11701378
Filing Date	02-Feb-2007
First Named Inventor	Andrew Hazelton
Art Unit	2882
Examiner Name	HUNG NGUYEN
Attorney Docket Number	125148.04
Title	ENVIRONMENTAL SYSTEM INCLUDING VACUUM SCAVENGE FOR AN IMMERSION LITHOGRAPHY APPARATUS

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 9,2011

In re Application of :

Andrew Hazelton

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11701378

Filed : 02-Feb-2007

Attorney Docket No : 125148.04

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 9,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2882 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	11701378
Filing Date	02-Feb-2007
First Named Inventor	Andrew Hazelton
Art Unit	2882
Examiner Name	HUNG NGUYEN
Attorney Docket Number	125148.04
Title	ENVIRONMENTAL SYSTEM INCLUDING VACUUM SCAVENGE FOR AN IMMERSION LITHOGRAPHY APPARATUS

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◯ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◉ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN R. GREINER, ESQUIRE
GREINER LAW OFFICES, PC
SUITE 110
8701 DEMOCRACY BLVD.
BETHESDA, MD 20817

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Hai Minh Tran :
Application No. 11/701,491 : DECISION ON PETITION
Filed: February 2, 2007 :
Attorney Docket No. 4075.00 :

This is a decision on the renewed 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 September 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 2, 2009. Accordingly, the date of abandonment of this application is September 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 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

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.
11/701,499	02/02/2007	Norikatsu Chiba	07481.0057-00000	3619

7590 08/05/2010
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
08/05/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 08/05/2010
02 .C:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of
Edward K. Y. Jung, et al.
Application No. 11/701,524
Filed: January 31, 2007
Attorney Docket No. QQ1-0198US

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 January 26, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

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: MARGARET ANDERSON
106 E. 6TH STREET
SUITE 900
AUSTIN, TX 78701

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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
JUNG, et al	:	
Application No. 11/701,527	:	DECISION ON PETITION
Filed: January 31, 2007	:	TO WITHDRAW
Attorney Docket No. QQ1-0188US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the request to change the correspondence address is not accompanied by a power of attorney nor is the correspondence address that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 04 2011

OFFICE OF PETITIONS

JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN, VA 22971

In re Application of :
Li-Hsu Huang :
Application No. 11/701,554 : ON PETITION
Filed: February 2, 2007 :
Attorney Docket No.: BHT/3110-316 :

This is a decision in response to the petition, filed November 22, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 16, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 17, 2009. A Notice of Abandonment was mailed on February 17, 2010. On November 22, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3637 for appropriate action by the Examiner in the normal course of business on the amendment received November 22, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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HICKMAN PALERMO TRUONG & BECKER, LLP
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SAN JOSE CA 95110

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JUN 08 2011

OFFICE OF PETITIONS

In re Application of :
Ben Jones et al :
Application No. 11/701,560 : DECISION ON PETITIONS
Filed: January 31, 2007 :
Attorney Docket No. 52637-0087 :

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. This is also a decision on the petition under the provisions of 37 CFR 1.314, filed June 6, 2011, to defer issuance of the above-identified application.

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 mailed March 3, 2011, is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.314:

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to Data Management to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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DENNIS V. CARMEN
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100 NORTH EASTMAN ROAD
KINGSPORT, TN 37660-5075

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Arthur T. SPAUGH, Jr. :
Application No. 11/701,599 : DECISION ON PETITION
Filed: February 2, 2007 : UNDER 37 CFR 1.181
Attorney Docket No. 80521 :

This is a decision on the petition, filed September 3, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 19, 2010, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). A notice of abandonment was mailed August 5, 2010.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Alexis N. Simpson 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 in whose behalf she acts. If, Ms. Simpson desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Ms. Simpson, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Petitioner states that on September 3, 2010, a five (5) month extension of time was electronically filed, which extended the response period until September 19,

2010. Petitioner asserts that on September 15, 2010, an amendment after appeal and request for continued examination (RCE) were timely filed.

In view of the above, the holding of abandonment for failure to timely file a reply to the Notice of Appeal of February 19, 2010 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1797 for appropriate action in the normal course of business on the reply received September 15, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **ALEXIS N. SIMPSON**
FINNEGAN HENDERSON FARABOW GARRETT & DUNNER, LLP.
303 PEACHTREE STREET NE, 3500 SUNTRUST PLAZA
ATLANTA, GA 30308

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON P.C.
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MINNEAPOLIS MN 55440-1022

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MAY 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,882,268
Issued: February 1, 2011
Application No. 11/701,608
Filed: February 1, 2007
Attorney Docket No. 16113-0272001

: 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 March 31, 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 281 to 433 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 thirty-three (433) days is **DISMISSED**.

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.

As a request for continued examination (RCE) was filed in this application, prior to the three-year pendency date, patentees are not entitled to an additional period of patent term adjustment pursuant to 1.702(b). The "B" delay period does not include any time consumed by continued examination under 132(b). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the filing of a RCE cuts off the ability to accumulate any additional patent term adjustment under the three-year pendency provision (but does not otherwise affect patent term adjustment). In this instance, an RCE was filed on November 13, 2009, prior to the three-year pendency date of February 1, 2010. As such, patentees did not accrue any time for over-three year pendency.

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
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
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In re Patent No. 7,882,268
Issued: February 1, 2011
Application No. 11/701,608
Filed: February 1, 2011
Attorney Docket No. 16113-0272001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on June 8, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 281 to 433 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On February 1, 2011, the above-identified application matured into U.S. Patent No. 7,882,268, with a revised patent term adjustment of 281 days. On June 8, 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 433. 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 September 3, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 152 day period from September 3, 2010 (the mailing date of the Notice of Allowance) until February 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 152 days and be increased from 0 to 152 days. Patentee concludes that the correct patent term adjustment is 433 days (the sum of 338 days of "A delay" and 152 days of "B delay" minus 57 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C.

111(a) on February 1, 2007 and the patent not having issued as of the day after the three year date, February 1, 2010, and a request for continued examination under 132(b) having been filed on November 13, 2009. In other words, the 152-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

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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.

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

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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.

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 13, 2009, and the patent issued by virtue of that request on February 1, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on November 13, 2009 and ending on February 1, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 281 days indicated on the patent is correct.

The Office acknowledges the previous 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JORDY M. WELLS
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BEVERLY HILLS CA 90212

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Jordy M. WELLS et al.	:	
Application No. 11/701,625	:	DECISION ON PETITION
Filed: February 02, 2007	:	
Attorney Docket No. WELLS-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 16, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/905,986 filed October 15, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3771 for appropriate action by the Examiner in the normal course of business on the reply received

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
ANDERSON, et al :
Application No. 11/701,662 : DECISION ON PETITION
Filed: February 1, 2007 : TO WITHDRAW
Attorney Docket No. 559022000111 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 14, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Mika Mayer and the attorneys of record associated with Customer Number 25226, has been revoked by the assignee of the patent application on February 14, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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Beckman c/o Morrison & Foerster, LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 02130-2040

In re Application of :
Jason Parkhurst et al. :
Application No. 11/701,677 : DECISION ON PETITION
Filed: February 2, 2007 : TO WITHDRAW
Attorney Docket No. 482022002700 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2010.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 63804 has been revoked by the assignee of the patent application on November 17, 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: M & G Beckman Coulter
P.O. Box 2903
Minneapolis, MN 55402

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12531 High Bluff Drive
Suite 100
San Diego, CA 02130-2040

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of :
Jason Parkhurst et al. :
Application No. 11/701,708 : DECISION ON PETITION
Filed: February 2, 2007 : TO WITHDRAW
Attorney Docket No. 482022002800 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2010.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 63804 has been revoked by the assignee of the patent application on November 17, 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: M & G Beckman Coulter
P.O. Box 2903
Minneapolis, MN 55402

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801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
Andrew E. Horch	:	
Application No. 11/701,710	:	DECISION GRANTING PETITION
Filed: February 2, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. VIRP-0237 (461844-038)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 10, 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 15, 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 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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FRANK CONA
SR. INTELLECTUAL PROPERTY CONUSEL
TYCO FIRE & SECURITY
ONE TOWN CENTER ROAD
BOCA RATON FL 33486

In re Application of :
Mark Alexis et al. :
Application No. 11/701,714 : DECISION ON PETITION
Filed: February 2, 2007 :
Attorney Docket No. **F-TP-00119-2 (336-25)** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 2, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 3, 2010.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 August 16, 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 JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450

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Floyd Taub
Box 2726
Dillon CO 80435

In re Application of :
Floyd TAUB et al. : ON PETITION
Application No. 11/701,737 :
Filed: February 2, 2007 :
Atty. Docket No.: Homeopathic Drug COM

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 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 Requirement for Restriction/Election mailed February 17, 2010 (Office action), which set a shortened period for reply of one (1) month. A 3-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned June 18, 2010. A Notice of Abandonment was mailed May 27, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Office action mailed February 17, 2010, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 1627 for further processing.

Robert DeWitty
Petitions Attorney
Office of Petitions

cc: Matthew D. Jonsen
Dorsey & Whitney LLP
Suite 400
1400 Wewatta Street
Denver, CO 80202-5549

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In re Application of :
Andrew Bosworth et al. :
Application No. 11/701,744 : DECISION ON PETITION
Filed: February 2, 2007 :
Attorney Docket No. 26295-14145 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 21, 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 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an 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.

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 2458 for appropriate action by the Examiner in the normal course of business on the reply received July 14, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert A. Hulse
555 California Street, 12th Floor
San Francisco, CA 94104

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P.O. DRAWER 800889
DALLAS TX 75380

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OFFICE OF PETITIONS

In re Patent No. 7,679,433
Issued: March 16, 2010
Application No. 11/701,747
Filed: February 2, 2007
Attorney Docket No. **P06695**

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(d) filed on March 25, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 99 days to 141 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 103 days and the "B" delay period, the over three year period begins on February 2, 2010 and ends on March 16, 2010, the day the patent was issued. However, patentee fails to account for the filing of a Notice of Appeal on March 2, 2009. The 42 days of the over three year period therefore would be consumed by appellate review, beginning on March 2, 2009 and ending on April 20, 2009, the date the non-Final Office Action was mailed. The time for appellate review is excluded (42 – 49); thus 0 additional days for B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 99 (103 "A delay days" + 0 "B delay days" (42-49) - 4 Applicant delay days) days, not 141 days.

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
Senior Petitions Attorney
Office of Petitions

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LEWIS, BRISBOIS, BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES CA 90012

In re Application of	:	
Hopper et al.	:	
Application No. 11/701,759	:	DECISION ON PETITION
Filed: February 2, 2007	:	
Attorney Docket No. 23745-5	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 2, 2009, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained and accompanied by a request for express abandonment. Accordingly, the application became abandoned on March 3, 2010. A Notice of Abandonment was mailed March 8, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (3).

With respect to item (3), the unintentional statement is considered to be improper.

Petitioner Christopher P. Maiorana, asserts that "inventor, Nicolopulos never signed a declaration, did not sign any assignment documents and did not sign any power of attorney documents appointing Attorney Astor as his attorney." Further, petitioner asserts that "Attorney Astor was working only on behalf of inventor, Hopper, not

inventor Nicolopulos" and that "Attorney Astor's actions do not alter that inventor Nicolopulos did not intend to abandon the present application."

A review of USPTO records reveals that on September 17, 2007 a petition according status under 37 C.F.R. § 1.47(a) was granted in the above-identified application based on joint inventor Nicolopolus refusing to join in the application. Further, the decision stated that applicants had submitted evidence "to show their inability to find the home address of inventor Nicolopolus to present the application papers to him." And additionally, "More importantly, the declaration of facts and supporting documentary evidence shows that the application papers were presented to Justin Shrenger, an attorney who represents inventor Nicolopolus, and that despite the mailing and subsequent phone calls to the attorney, inventor [Nicolopolus] by his conduct in not responding to the request to sign the declaration has refused to join the application." Additionally, petitioner is currently seeking a priority claim to the above-identified application via a petition under 37 C.F.R. 1.78(a)(3) in application 11/941,835. After receiving a dismissal in the '835 application on June 8, 2011, applicant now seeks revival of the above-identified application and has requested that both petitions be considered at the same time.

Therefore, there is a question at to whether or not the abandonment was intentional.

Although petitioner Christopher P. Maiorana (Maiorana) on behalf of Stephen Nicololpulos (Nicolopulos), asserts the delay was unintentional it is noted neither Maiorana nor Nicolopulos appear to be the party having the right or authority to reply to avoid abandonment (or not reply) of the application. In view of the September 17, 2007 decision granting status under 37 C.F.R. § 1.47(a), Nicolopulos was not a participating applicant in the prosecution of the above-identified application. Therefore, the unintentional statement of Maiorana cannot be accepted at this time. Further, evidence is required, including, but not limited to, statements from applicants Weston S. Hopper and Stephen Nicolopolus, statements from all persons involved in the abandonment of the application including Sanford Astor, Registration No. 20,748, Ronald B. Gaudiano and Henri Baldan and what they knew concerning the abandonment of the application. Petitioner should further explain why the decision to abandon the instant application should not be binding on all parties and why the decision to abandon the instant application was not an intentional delay.

Petitioner has not shown to the satisfaction of the Director that the entire delay herein was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b).

35 U.S.C. § 41(a)(7) applies to the situation of the above-identified application (i.e., to the revival of an abandoned application), however, it precludes the Director from reviving the above-identified application. The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable."[emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the

petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here, the showing is that applicant intentionally discontinued prosecution and permitted the application to become abandoned, due to a concern of interference and the filing of continuation application 12/714,669 on March 1, 2010.

The showing is further that applicant made no effort to seek revival until after becoming aware of what petitioner characterizes as an error on the part of Attorney Astor. The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997).

However, both the delay herein in filing the reply during prosecution, and in filing the petition after abandonment, are inconsistent with a finding that the entire delay herein was unintentional, such that revival is proper. Simply put, a course of conduct resulting in a delay that is, as here, purposefully chosen does not qualify as unintentional delay.

It is further noted that 35 U.S.C. § 41(a)(7) does not require an affirmative finding that the delay was intentional, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unintentional. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing); see also In re Application of G, supra (petition under 37 CFR 1.137(b) denied because the applicant failed to carry the burden of proof to establish that the delay was unintentional).

Here, while petitioner contends that the failure to reply during the pendency of the application was an error on the part of Attorney Astor, petitioner nevertheless did not even seek revival until there was a change in circumstance long after abandonment, i.e., until petitioner sought a priority claim to the above-identified application via a petition under 37 C.F.R. 1.78(a)(3) in application 11/941,835. Where upon receiving a dismissal in the '835 application on June 8, 2011, applicant chose to seek revival of the above-identified application. However, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

While the entire record has been carefully reviewed, the showing of record is inconsistent with a finding that the entire delay herein was unintentional:

> Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the

> resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by: (1) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application; (2) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (3) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival. Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention (a submarine application) is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking either the withdrawal of a holding of abandonment in or the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53132 at 53158-59 (October 10, 1997), reprinted at 1203 Off. Gaz. Pat. Office, 65 at 86 (October 21, 1997) (citations omitted).

Where, as here, the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, supra. An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Christopher P. Maiorana
24840 Harper Avenue, Suite 100
St. Clair Shores, MI 48080

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Paper No.

ROCKWELL AUTOMATION, INC./(QB)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

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OFFICE OF PETITIONS

In re Application of	:	
Gilmore	:	
Application No. 11/701,793	:	DECISION ON PETITION
Filed: February 2, 2007	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
110003.00217.06AB141	:	
Title: METHOD AND APPARATUS	:	
FOR DC BUS CAPACITOR PRE-	:	
CHARGE		

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 16, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed August 21, 2008, 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 obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on November 22, 2008. A notice of abandonment was mailed on March 9, 2009.

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, Applicant has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

The second and third requirements of Rule 1.137(b) have been satisfied. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The present petition is not grantable because the first requirement of Rule 1.137(b) has not been satisfied. Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[2] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (*i.e.*, a Notice of Appeal (and fee required by law); an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. § 1.53(b); a request for continuing examination under 37 C.F.R. § 1.114, if applicable; or a 37 C.F.R. § 1.129(a) submission, if applicable). An amendment was received along with this petition. The amendment has been considered by the Examiner, and it has been determined that it fails to place the application in condition for allowance for the reason(s) set forth in the attached Advisory Action.

If reconsideration of this petition is desired, Petitioner may file a reply including a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

1 See Rule 1.137(d).
2 See M.P.E.P. § 711.03(c).

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

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3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300: please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/701,793	**Applicant(s)** GILMORE, THOMAS PATRICK	
	Examiner Emily Pham	**Art Unit** 2838	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *5-7,11-13,17 and 18*.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-4,8-10 and 14-16*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

The change of "when" to "whenever" in claims 1, 8, and 14 would raise new issue that would require further consideration and search.

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Paper No.

ROCKWELL AUTOMATION, INC./(QB)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Gilmore	:	
Application No. 11/701,793	:	DECISION ON PETITION
Filed: February 2, 2007	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
110003.00217.06AB141	:	
Title: METHOD AND APPARATUS	:	
FOR DC BUS CAPACITOR PRE-	:	
CHARGE	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed November 12, 2010, to revive the above-identified application. A duplicate copy of this petition was submitted on November 18, 2010.

This renewed 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 August 21, 2008, which set a shortened statutory period for reply of three months. No response was received, no extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on November 22, 2008. A notice of abandonment was mailed on March 9, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on April 16, 2010, along with the petition fee, an amendment, and the proper statement of unintentional delay. The original petition was dismissed via the mailing of a decision on October 19, 2010, which indicated that the second and third requirements of Rule 1.137(b) have been satisfied, and the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

With this renewed petition, Petitioner filed a Request for Continued Examination (RCE) along with the required fee. The amendment that was received on April 16, 2010 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, each of the first three requirements of Rule 1.137(b) has been met.

It is noted that Petitioner has submitted the fee that is associated with the filing of an RCE with both the November 12, 2010 submission and the November 18, 2010 submission. The duplicate submission will be refunded to Deposit Account No. 17-0055 in due course.

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 April 16, 2010 - can be processed in due course.

---

1 See Rule 1.137(d).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected – **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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LAW OFFICES OF MARK A. GARZIA, P.C.
2058 CHICHESTER AVE
BOOTHWYN PA 19061

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Kenneth A. Alley	:	
Application No. 11/701,855	:	DECISION ON PETITION
Filed: February 1, 2007	:	
Attorney Docket No. ALLE-P16.1-US	:	

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 on or before July 20, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 20, 2010. Accordingly, the date of abandonment of this application is July 21, 2010. The Notice of Abandonment was mailed August 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PETER BERNSTEIN
SCULLY SCOTT MURPHY & PRESSER, P.C.
SUITE 300
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

MAILED
SEP 0 9 2011
OFFICE OF PETITIONS

In re Application of :
William George Rhodey :
Application No. 11/701,931 : DECISION ON PETITION
Filed: February 2, 2007 :
Attorney Docket No. 20746Z :

This is a decision on the petition, filed September 1, 2011, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed January 19, 2011. A Notice of Abandonment was mailed on August 12, 2011.

Petitioner asserts that the Notice dated January 19, 2011 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received.

The showing required to establish non-receipt of the Notice must include:

(1) a statement from the practitioner describing the system used for recording the Notice 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 Notice and the due date for the response.

(2) Practitioner must state that the Notice 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 Notice was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Notice 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 Notice should include the master docket for the firm. That is, if a one month period for reply was set in the non-received Notice, a copy of the master docket report showing all replies docketed for a date one month from the mail date of the non-received Notice must be submitted as documentary proof of non-receipt of the Notice. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to the Technology Center technical support staff of Art Unit 1771 for re-mailing the Notice of January 19, 2011. The period for reply will run from the mailing date of the Notice.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Edwards, Angell, Palmer and Dodge LLP
111 Huntington Avenue
P.O. Box 55874
Boston MA 02205

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,586,824	:
Hirokane et al.	: DECISION ON REQUEST FOR
Issue Date: September 8, 2009	: RECONSIDERATION OF
Application No. 11/701,942	: PATENT TERM ADJUSTMENT
Filed: February 2, 2007	:
Attorney Docket	:
No.57610DIV1(70904)	:
Title: OPTICAL STORAGE MEDIUM,	:
OPTICAL READ/WRITE APPARATUS,	:
AND OPTICAL READ/WRITE METHOD	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST ROR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" filed on April 29, 2010.

Patentees initially filed a request for recalculation of patent term adjustment in light of Wyeth on March 2, 2010. In response a petition dismissing the request was mailed April 21, 2010. Patentees request reconsideration of the dismissal.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

A review of the record shows that the above-identified patent is ineligible to receive recalculation of the patent term adjustment based upon Wyeth because the patent issued prior to the three year anniversary of the filing date.

As such patentees are not entitled to additional patent term adjustment based upon Wyeth.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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LUMEN PATENT FIRM
350 CAMBRIDGE AVENUE
SUITE 100
PALO ALTO CA 94306

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Application of :
Paul R. GEFKEN et al. :
Application No. 11/701,966 :
Filed: February 02, 2007 :
Attorney Docket No. **SRI-116/US** :

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) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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AMANDA WITTINE
AVERY DENNISON CORPORATION
8080 NORTON PARKWAY, 22-D
MENTOR, OH 44060

MAILED
JUN 14 2011
OFFICE OF PETITIONS

In re Application of
Mitchell G. Stern
Application No. 11/701,994
Filed: February 2, 2007
Attorney Docket No.: 5242-US

ON PETITION

This is a decision in response to the petition, filed May 3, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 1, 2010. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $1,110 extension fees included with this petition will be refunded to counsel's credit card.

The application is being referred to Technology Center AU 1745 for appropriate action by the Examiner in the normal course of business on the response filed May 3, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SYNECOR LLC
P.O. BOX 5325
LARKSPUR CA 94977

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of
Williams, et al.
Application No. 11/702,000
Filed: February 2, 2007
Attorney Docket No. NPLS-100
For: INTRAVASCULAR DEVICE FOR NEUROMODULATION

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed August 22, 2011, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed November 15, 2010, which set forth an extendable three (3) month period for reply. Applicants purchased a three month extension of time and submitted a reply via EFS-Web on certificate of EFS transmission date May 16, 2011. The filing was received in the Office on Tuesday, May 17, 2011 at 1:27:39. The Office contended that this application became abandoned on May 16, 2011 for failure to timely reply. A Notice of Abandonment was mailed on June 23, 2011.

Petitioners assert the reply included an EFS filing certificate, certifying that the correspondence was being filed via EFS-Web on Monday, May 16, 2011. The image file wrapper supports this assertion. However, since applicants' representative practices in the Pacific Time Zone, the receipt date in the Office was 1:27:39 am on May 17, 2011.

Patent application/reexamination proceeding correspondence filed after the initial application filing (i.e. follow-on correspondence) will receive as an official filing date the date the follow-on correspondence is received at the USPTO. However, follow-on correspondence that is required to be filed within a set time period will be considered timely if the correspondence is officially submitted through EFS-Web prior to the expiration of the set time period, and the correspondence includes a certificate for each piece of correspondence stating the local date of submission. See 37 CFR 1.8(a)(1)(i)(C).

In other words, for a follow on paper, such as an amendment, the date of receipt is the date that the submit button is pressed. The EFS-Web system records as the date of receipt of documents the local date in Eastern Standard Time on which it receives an electronic indication that the

SUBMIT button has been clicked on the Confirm and Submit screen for those documents. The time the papers in question were submitted is 1:27:39 EST pm on May 17, 2011, which translates to 10:27:39 pm PST on Monday, May 16, 2011. The due date fell on a Sunday. Therefore, the Monday submission was timely.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the June 23, 2011 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to Technology Center G.A.U. 3762 for consideration of the response submitted on May 16, 2011 via EFS-Web and received in the Office on May 17, 2011.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of :
Chad A. Mirkin et al. :
Application No. 11/702,002 : DECISION ON PETITION
Filed: February 2, 2007 :
Attorney Docket No. 2924.015US3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 19, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 20, 2010. A Notice of Abandonment was mailed on February 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 $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 power of attorney filed on May 24, 2010 has been accepted. A power of attorney is not effective until the request is processed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1637 for appropriate action by the Examiner in the normal course of business on the reply received March 25, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/702,002	02/02/2007	Chad A. Mirkin	00-713-i27

CONFIRMATION NO. 4212

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

POA ACCEPTANCE LETTER

OC000000047624963

Date Mailed: 05/12/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/24/2010.

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.

/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

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 Ben Livneh

Application No. 11702054

Filed: 05-Feb-2007

Attorney Docket No. 28873U

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), 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 outstanding Office communication. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the response is accepted as having been unintentionally delayed.

The statement of unintentional delay is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay and by a person having firsthand or direct knowledge of the facts and circumstances of the delay at issue. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg.53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Technology Center.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11702054
Filing Date	05-Feb-2007
First Named Inventor	Ben Livneh
Attorney Docket Number	28873U
Title	Energy management in a power generation plant

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

Petition Fee

- ○ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ○ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ◉ Applicant(s) status remains as SMALL ENTITY.
- ○ Applicant(s) status remains as other than SMALL ENTITY.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ◉ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ○ RCE Request, Submission, and Fee are attached

Notice of Appeal

○	I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on
○	Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒	STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

○	An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
◉	An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
○	A sole inventor
○	A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
○	A joint inventor; all of whom are signing this e-petition
○	The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Anthony J. Janiuk/
Name	Anthony J. Janiuk
Registration Number	29809

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Cannas :
Application No. 11/702,172 : ON PETITION
Filed: February 5, 2007 :
Attorney Docket No. 2675-0006 :
For: HEAT EXCHANGER WITH FINNED TUBE AND METHOD OF PRODUCING THE SAME

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed March 22, 2010, which set a one month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 23, 2010.

Applicant has submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the $1.620.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 3744 for consideration of the election filed on January 31, 2011.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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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BLAKE, CASSELS & GRAYDON, LLP
45 O'CONNOR ST., 20TH FLOOR
OTTAWA ON K1P 1A4 CA CANADA

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Peter A. SMITH, et *al.* :
Application No. 11/702,263 : DECISION GRANTING PETITION
Filed: February 5, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **64457/174** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2476 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.*

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	11702263
Filing Date	05-Feb-2007
First Named Inventor	Peter Smith
Art Unit	2476
Examiner Name	PHIRIN SAM
Attorney Docket Number	64457/174
Title	MULTICAST IMPLEMENTATION IN A LINK STATE PROTOCOL CONTROLLED ETHERNET NETWORK

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Kent Daniels/
Name	Kent Daniels
Registration Number	44206

UNITED STATES 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 10,2011

In re Application of :

Peter Smith

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11702263

Filed : 05-Feb-2007

Attorney Docket No : 64457/174

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 10,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2476 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/15/2011 Paper No.: ———

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/702346 Patent No.: 7918432 B2

CofC mailroom date: 4/5/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Terrell Mckinnon/ 3632

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-28-11

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 11702436 Patent No.: 7502532

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The Request for Certificate of Correction for the purpose of correcting typographical and grammatical errors. No new matters added.

/UYEN-CHAU N. LE/ — SPE

2874 — Art Unit

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: 038817.58684US	
Application Number: 11/702,506	Filing Date (or 371(b) or (f) Date): February 6, 2007
Patent Number: 7,665,313 B2	Issue Date: February 23, 2010
First Named Inventor: Paul DIXEY	
Title: Suspension Tensioning Arrangements	

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 /Gary R. Edwards 31824/	Date August 23, 2010
Name (Print/Typed) Gary R. Edwards	Registration Number 31824

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 09/08/2010

Applicant	: Paul Dixey	: DECISION ON REQUEST FOR
Patent Number	: 7665313	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/702,506	: 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 **565** 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

9-17-2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,704,329 B2
Ser. No. : 11/702,529
Inventor(s) : Kenji Kobayashi,e t. al.
Issued : April 27, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Michael E. Fogarty
McDermott Will & Emery LLP
600 13th Street, NW
Washington, DC 20005-3096

ej

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Alexandria, VA 22313-1450
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APR 07 2011

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Patent No. 7,704,329 :
Issue Date: April 27, 2010 :
Application No. 11/702,529 : DECISION ON PETITION
Filed: February 6, 2007 :
Attorney Docket No. 071971-0933 :

This is a decision on the Request For Correction Of Correction Under 37 C.F.R. 1.323, filed November 16, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), 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 urges that the present Petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (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. 7,704,329.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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American Air Liquide, Inc.
Intellectual Property Dept.
2700 Post Oak Boulevard
Suite 1800
Houston, TX 77056

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MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Denis Astier :
Application No. 11/702,557 : DECISION ON PETITION
Filed: February 6, 2007 : TO WITHDRAW FROM
Attorney Docket No. 0503-1122 : 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 February 11, 2011.

The request is **MOOT**.

A review of the file record indicates that any previous power of attorney was revoked by the assignee of the above application on December 10, 2009. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is unnecessary.

This application is abandoned by operation of the law since no response to the Office action mailed August 30, 2010 has been received[1].

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: Liam McDowell
1061 Dalebrook Drive
Alexandria, VA 22308

[1] No further consideration will be given to the instant request unless a petition under 37 1.181 or 37 CFR 1.137 has been filed.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/702,598	02/06/2007	Shinichi Nagahama	NC-US061545	5221

22919 7590 04/16/2012
GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

EXAMINER	
VAN ROY, TOD THOMAS	
ART UNIT	**PAPER NUMBER**
2828	

NOTIFICATION DATE	DELIVERY MODE
04/16/2012	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):

mailpto@giplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Nomugi Tomoyori
Global IP Counselors, LLP
1233 Twentieth Street NW, Suite 700
Washington DC 20036

In re Application of	:	
Shinichi Nagahama et al.	:	DECISION ON PETITION
Serial No.:11/702,598	:	Requesting Consideration of an IDS
Filed: February 6, 2007	:	
For: Light Emitting Device	:	

This is a decision on the Petition filed July 29, 2009, requesting acceptance and consideration of an Information Disclosure Statement (IDS) submitted with the Petition of July 29, 2009.

The Petition is **Dismissed as Moot**.

In reviewing the prosecution history of the file, it is noted that the examiner in the office action dated November 17, 2009 indicated acceptance and consideration of the reference submitted on the IDS of July 29, 2009. The examiner included a signed, initialed and dated PTO-1449 indication this action which renders the applicant's request moot.

Any question concerning this decision should be directed to Jessica Stultz, Supervisory Patent Examiner, at (571) 272-2339.

The application has been forwarded to the Examiner for further examination in response to the July 1, 2011 Request for Continued Examination.

Jack Harvey, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NOV 05 2010

OFFICE OF PETITIONS

Nixon Peabody, LLP
401 Ninth Street, NW
Suite 900
Washington, DC 20004

In re Application of	:	
Tim Musgrove et al.	:	
Application No. ~~12/702,662~~ **11/702,662**	:	DECISION ON PETITION
Filed: February 6, 2007	:	TO WITHDRAW
Attorney Docket No. 002566-034000	:	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 7, 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 Jeffrey L. Costellia and all attorneys/agents of record has been revoked by the assignee of the patent application on September 9, 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: Reed Smith, LLP
P.O. Box 488
Pittsburgh, PA 15230

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Nixon Peabody, LLP
401 Ninth Street, NW
Suite 900
Washington, DC 20004

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OFFICE OF PETITIONS

In re Application of :
Tim Musgrove et al. :
Application No. 11/702,662 : CORRECTED DECISION ON
Filed: February 6, 2007 : PETITION TO WITHDRAW
Attorney Docket No. 002566-034000 : FROM RECORD
:

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 7, 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 Jeffrey L. Costellia and all attorneys/agents of record has been revoked by the assignee of the patent application on September 9, 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.

The previous decision contained an incorrect application number.

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: Reed Smith, LLP
P.O. Box 488
Pittsburgh, PA 15230

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JUN 28 2011

OFFICE OF PETITIONS

RYAN KROMHOLZ & MANISON, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

In re Application of :
Scott H. West et al :
Application No. 11/702,695 : ON PETITION
Filed: February 6, 2007 :
Attorney Docket No. 9222.17590-DIV DIV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 29, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 30, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 the submission required by 37 CFR 1.114; (2) the petition fee of $1620 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3739 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed June 2, 2011 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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OFFICE OF PETITIONS

RYAN KROMHOLZ & MANION,M S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

In re Application of :
WEST et al :
Application No. 11/702,695 : DECISION ON REQUEST FOR REFUND
Filed: February 6, 2007 :
Attorney Docket No. 9222.17590-DIV DIV :

This is a decision on the Request For Refund filed September 1, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "... Fees paid on 2 June 2011 were paid as a large entity. The applicant at that time, and continues to be, entitled to Small Entity Status.

A refund for fees paid is requested in the amount of $1215.00, and should be credited to the charge card used on 2 June 2011."

In view of the above, a total of $1,215.00 is being credited to applicant's credit card account as authorized.

Additionally, small entity status has been accorded as noted in the communication submitted on September 1, 2011.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/702,795	02/05/2007	Steve White	59008/W492	4760

23363 7590 08/23/2010
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER	
TWEEL JR, JOHN ALEXANDER	
ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
08/23/2010	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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of :
White, Steve *et al.* :
Serial No.: 11/702,795 :
Filed: February 5, 2007 :
For: **METHOD AND SYSTEM FOR CONTROLLING A VEHICLE GIVEN TO A THIRD PARTY** :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed February 5, 2007, requesting the acceptance of color drawings.

The petition requests that the color drawings identified in Figures 7, 8, 9, 10A, 11, 12, 14, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 31 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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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. : **7812712**
Ser. No. : **11/702795**
Inventor(s) : **WHITE, STEVE**
Issued : **10/12/2010**
Title : **METHOD AND SYSTEM FOR CONTROLLING A VEHICLE GIVEN TO A THIRD PARTY**
Docket No. : **59008/W492**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

In regards to the alleged error(s) in the Claims, Claim 12, Line 61 is printed in accordance with the Claims filed on 10-6-09. A $100 fee is required to correct an applicant's error.

In view of the foregoing, your request, in this matter, is hereby denied.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

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SEP 2 4 2010

OFFICE OF PETITIONS

In re Application of :
Ou, et al. :
Application No. 11/702,850 : ON PETITION
Filed: February 5, 2007 :
Attorney Docket No. 50277-3254 :

This is a decision on the petition under 37 CFR 1.78, filed February 23, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the amendment filed concurrently with the instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) 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 applicant is seeking a claim for priority, it does not appear that Application No. 11/702,850 shares an inventor in common with Application No. 09/873,061. Section 201.11(IV) of the Manual of Patent Examining Procedure provides, that:

> The statute also requires that the applications claiming benefit of the earlier filing date under 35 U.S.C. 119(e) or 120 be filed by an inventor or inventors named in the previously filed application or provisional application. 37 CFR 1.78(a)(1) and (a)(4) require that each prior-filed application must name as an inventor at least one inventor named in the later-filed application and

disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112.

It is noted that the Application No. 11/702,850 cites inventorship for the application as "Ou, Thivakaram, Presley, and Malla". Application No. 09/873,061, which petitioner cites directly as a continuation of Application No. 11/702,850, cites inventorship as "Tan, Sero, and Walsh". Any renewed petition filed must be accompanied by a reference that complies with 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i). and 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i).

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the some of the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Chris Bottorff
Supervisor
Office of Petitions

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2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

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DEC 15 2010

OFFICE OF PETITIONS

In re Application of :
Ou, et al. :
Application No. 11/702,850 : ON PETITION
Filed: February 5, 2007 :
Attorney Docket No. 50277-3254 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 12, 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 will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) 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 applicant is seeking a claim for priority, it does not appear that Application No. 11/702,850 is co-pending with prior-filed Application No. 09/875,932. Section 201.11(II)(B) of the Manual of Patent Examining Procedure provides, that:

> When a later-filed application is claiming the benefit of a prior-filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c), the later-filed application must be copending with the prior application or with an intermediate nonprovisional application similarly entitled to the benefit of the filing date of the prior application. Copendency is defined in the clause which

> requires that the later-filed application must be filed before: (A) the patenting of the prior application; (B) the abandonment of the prior application; or (C) the termination of proceedings in the prior application.

A review of Office records reveals that prior-filed Application No. 09/872,932 was abandoned on January 3, 2007, and that the later filed Application No. 11/702,850 was not filed until February 5, 2007. The later filed application was not filed before the abandonment of the prior-filed application. Accordingly, there is no co-pendency between the applications.

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 matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Chris Bottorff
Supervisor
Office of Petitions

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2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

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MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Yuanjiang Ou et al :
Application No. 11/702,850 : DECISION ON REQUEST FOR REFUND
Filed: February 5, 2007 :
Attorney Docket No. 50277-3254 :

This is a decision on the Request For Refund filed March 15, 2011.

The request is **DISMISSED**.

Applicant files the above request and states that the "Petition to Accept Unintentionally Delayed Claim" (petition filed on February 23, 2010 and renewed on October 12, 2010) has been denied and therefore, request a refund of the $1,400.00 petition fee submitted on February 23, 2010.

However, even though the petition filed October 12, 2010 was dismissed, service was provided. Therefore, the request for refund filed March 15, 2011 is dismissed.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Yuanjiang Ou et al :
Application No. 11/702,850 : DECISION ON REQUEST FOR REFUND
Filed: February 5, 2077 :
Attorney Docket No. 50277-3254 :

This is a decision on the renewed Request For Refund filed April 11, 2011.

The request is **GRANTED**.

In view of the details specified in the request for refund filed April 11, 2011, the request for refund is granted.

The petition fee of $1,410.00 is being credited to petitioner's credit card account, as it is the method in which the fee was paid.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,913,857 :
Koo et al. : DECISION ON
Application No. 11/702,917 : PETITION
Filed: February 6, 2007 :
Atty Docket No. 82505CIP :

This is a decision on the PETITION FOR DUPLICATE LETTERS PATENT filed July 26, 2011, requesting a duplicate because the original Letters Patent has been lost in the mail. The petition has been made by an appropriate party in interest, i.e., an attorney of record and includes the petition fee of $400.

Accordingly, the petition is **GRANTED**.

The Office of Data Management is directed to issue a Duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at (703) 756-1555.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letters Patent.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person, by Fax to (571) 270-9764.

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

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Patent No. 8,089,795 :
Rajan et al. : DECISION ON REQUEST FOR
Issue Date: January 3, 2012 : RECONSIDERATION OF
Application No. 11/702,981 : PATENT TERM ADJUSTMENT
Filed: February 5, 2007 : and
Attorney Docket No. 16113-1902001 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 24, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred sixty-one (461) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred nine (309) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

BACKGROUND

On January 3, 2012, the above-identified application matured into U.S. Patent No. 8,089,795, with a revised patent term adjustment of 307 days. On February 24, 2012, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 461 days.

Preliminarily, patentee maintains that a 2-day reduction should not have been entered for payment of the issue fee on November 7, 2011. Patentee states that as intended by 35 U.S.C. § 154(b)(2)(C)(ii), the three-month date should be calculated from November 7, 2011, as November 5, 2011, falls over a weekend, and requests the Office recalculate this period of applicant delay as 0 days. Applicant is correct that this period of reduction, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b), is incorrectly calculated as 2 days. This reduction has been reconsidered, and it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. Accordingly, the period of reduction of 2 days is being removed.

However, Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of requests for continued examination on April 13, 2011 and July 25, 2011) the Office mailed a Notice of Allowance on August 5, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 152 day period from August 5, 2011 (the mailing date of the Notice of Allowance) until January 3, 2012 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 152 days and be increased from 431 to 583 days. This argument is at issue.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under

section 181, or or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 431 days based on the application having been filed under 35 U.S.C. 111(a) on February 5, 2007 and the patent not having issued as of the day after the three year date, February 6, 2010, and a first request for continued examination under 132(b) having been filed on April 13, 2011. The 266-day over three year period beginning on April 13, 2011 (including the 152 day period beginning on August 5, 2011) was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," meaning that the limitations of paragraph 2 apply to this paragraph's extension of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issuance of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United

States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants extensions of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the

patent. Thus, not including "any time consumed by" means not including in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days taken up with or any time consumed by clauses (i)-(iii), including filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or taken up with the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the American Inventors Protection Act of 1999, as 35 U.S.C. 154(b).

By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the

application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37

CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed.

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request.

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a first request for continued examination was filed on April 13, 2011, and the patent issued by virtue of that request on January 3, 2012. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 13, 2011 and ending on January 3, 2012 is not included in calculating Office delay.

CONCLUSION

With respect to correction of the applicant delay, the Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one**

(1) month or thirty (30) days, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred nine (309)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,089,795 B2

DATED : **January 3, 2012** **DRAFT**

INVENTOR(S) : Rajan 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 307 days

Delete the phrase "by 307 days" and insert – by 309 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/22/11

TO SPE OF : ART UNIT 2434

SUBJECT : Request for Certificate of Correction for Appl. No.: 11703020 Patent No.: 7543332

CofC mailroom date: 11/17/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the References be inserted?**

Yes, the references should be inserted as they were considered by the examiner as noted by the sentence at the bottom of the annotated PTO-1449 which was mailed as an attachment to the NOA dated 12/10/2008.

/Gilberto Barron Jr./
SPE 2432

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

❑ **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY NY 11797

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Trieu et al.	:	
Application No. 11/703,059	:	DECISION ON PETITION
Filed: February 6, 2007	:	
Attorney Docket No. PC399.23/1502-45	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, February 25, 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 26, 2010. A Notice of Abandonment was mailed December 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper After-Final Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3733 for processing of the After-Final Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 2200
SAN DIEGO, CA 92101

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of :
Subir Varma :
Application No. 11/703,065 : DECISION ON PETITION
Filed: February 6, 2007 :
Attorney Docket No. 112174-079UTL :

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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 4, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $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 2472 for appropriate action by the Examiner in the normal course of business on the reply received July 2, 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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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :

LIDA, Eyran :
Application No. 11/703,080 : DECISION ON PETITION
Filed: February 07, 2007 : TO WITHDRAW
Attorney Docket No. **44460** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 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 the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a updated Statement under 37 CFR 3.73(b) or a copy of the actual assignment with the correct reel and frame number must be submitted with a renewed request. The denial of request for Power of Attorney dated January 06, 2011 states that the person(s) appointed in the Power of Attorney is not registered to practice before the U.S. Patent and Trademark Office.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **HICKS INTELLECTUAL PROPERTY LAW**
709 MAIN STREET, SUITE 300
CANMORE, CANADA T1W2B-2

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
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MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :

LIDA, Eyran :
Application No. 11/703,080 : DECISION ON PETITION
Filed: February 07, 2007 : TO WITHDRAW
Attorney Docket No. **44460** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 15, 2011.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a updated Statement under 37 CFR 3.73(b) or a copy of the actual assignment with the correct reel and frame number must be submitted with a renewed request. The Assignment does not list the current and updated assignee as of December 22, 2008.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

APR 19 2011

OFFICE OF PETITIONS

In re Application of :

LIDA, Eyran :
Application No. 11/703,080 : DECISION ON PETITION
Filed: February 07, 2007 : TO WITHDRAW
Attorney Docket No. **44460** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 12, 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 the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a updated Statement under 37 CFR 3.73(b) or a copy of the actual assignment with the correct reel and frame number must be submitted with a renewed request. The Assignment does not list the current and/or updated assignee as of December 22, 2008. Valens Semiconductor LTD. is no longer the assignee. **Please submit an updated 3.37(b) statement or an assignment with the correct Assignee listed in our records.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 2,2011

In re Application of :

Eyran Lida

Application No : 11703080

Filed : 07-Feb-2007

Attorney Docket No : 44460

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 2,2011

The request is **APPROVED**

The request was signed by Martin D. Moynihan (registration no. 40338) on behalf of practitioners withdrawn.

Attorney(s)/Agent(s) withdrawn:

Martin Moynihan (reg. no. 40338)

All other attorneys/agents previously of record, continue to be of record.

All future communications from the Office will continue to be directed to the correspondence of record.

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 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	11703080
Filing Date	07-Feb-2007
First Named Inventor	Eyran Lida
Art Unit	2611
Examiner Name	HELENE TAYONG
Attorney Docket Number	44460
Title	DEVICES FOR TRANSMITTING DIGITAL VIDEO AND DATA OVER THE SAME WIRES

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners (with registration number) of record listed below:

Martin Moynihan 40338

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

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Martin D. Moynihan/
Name	Martin D. Moynihan
Registration Number	40338

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/04/2010

Applicant	: Hisamitsu Takahashi	: DECISION ON REQUEST FOR
Patent Number	: 7648765	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/703,084	: 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 **163** 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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JUAN CARLOS A. MARQUEZ
C/O STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314-1437

MAILED
MAY 11 2011
OFFICE OF PETITIONS

In re Application of :
Tashiro, Naomitsu :
Application No.: 11/703,164 : ON PETITION
Filed: February 7, 2007 :
Attorney Docket No. TMIA-0072 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 3, 2010, to revive the above-identified application.

The petition is **DENIED**[1].

BACKGROUND

A Notice of Express Abandonment was received by the Office on March 22, 2010, stating that the instant application was being expressly abandoned and that the applicant no longer wished to take any further action in the prosecution of this application. Accordingly, this application became abandoned on April 2, 1010, which a Notice of Abandonment was mailed.

A petition under 37 CFR 1.137(b) was filed April 23, 2010 to revive the above-identified application. The petition was dismissed in the decision of July 14, 2010.

This decision is in response to the renewed petition of September 3, 2010.

STATUTE AND REGULATION

35 U.S.C. § (2)(B)(2) provides, in part, that:

> The Office-- may, establish regulations, not inconsistent with law, which
>
> (A) shall govern for the conduct of proceedings in Office.

---

[1] This decision may be viewed by petitioner as a final agency action within the meaning of 5USC 704 for purposes of seeking judicial review. See MPEP 1002.02

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." Specifically, 35 U.S.C. § 41(a)(7) provides that the Commissioner shall charge:

> On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, $1500, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $500.

37 CFR 1.2 states:

> 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.

37 CFR 1.137(b) provides:

> Unintentional. Where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to this paragraph. A grantable petition pursuant to this paragraph must be accompanied by:
> (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) The petition fee as set forth in § 1.17(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 § 1.20(d)) required pursuant to paragraph (c) of this section.

OPINION

Petitioner asserts the delay and entire circumstances of the abandonment was unintentional. Specifically, petitioner states, "the undersigned received on March 19, 2010, instructions to file a request for abandonment immediately." Further, "the undersigned representative received via email on March 24, 2010 further instructions indicating the abandonment of the application was in error, and that the Notice of Express Abandonment should be withdrawn or cancelled." Finally, petitioner states, "the undersigned representative contacted the Office to inquire about the procedure to withdraw the Notice, and was informed that such Notice after being filed cannot be withdrawn. Rather, the undersigned representative was advised to wait until the Notice of Abandonment was issued, and then submit a Petition to Revive under 37 CFR 1.137."

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute,

but must include the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) an adequate 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) in some instances, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

Petitioner has not shown to the satisfaction of the Director that the entire delay herein was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). 35 U.S.C. § 41(a)(7) applies to the situation of the above-identified application (i.e., to the revival of an abandoned application), however, it precludes the Director from reviving the above-identified application. The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable."[emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here, the showing is that applicant intentionally discontinued prosecution and permitted the application to become abandoned, due to its own filing of the Notice of Express Abandonment.

The showing is further that applicant made no effort to seek revival until *after* the application became abandoned as petitioner was notified of the error 8 days prior to the Notice of Abandonment being issued. The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing a request to withdraw the Notice of Express Abandonment, and in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997).

However, the delay herein in filing a request or the petition after abandonment is inconsistent with a finding that the entire delay herein was unintentional, such that revival is proper. Simply put, a course of conduct resulting in a delay that is, as here, purposefully chosen does not qualify as unintentional delay.

It is further noted that 35 U.S.C. § 41(a)(7) does not require an affirmative finding that the delay was intentional, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unintentional. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing); see also In re Application of G, supra (petition under 37 CFR 1.137(b) denied because the applicant failed to carry the burden of proof to establish that the delay was unintentional).

While the entire record has been carefully reviewed, the showing of record is inconsistent with a finding that the entire delay herein was unintentional:

> Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, filing of an express abandonment or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by: (1) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application; (2) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (3) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival. Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention (a submarine application) is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking either the withdrawal of a holding of abandonment in or the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53132 at 53158-59 (October 10, 1997), reprinted at 1203 Off. Gaz. Pat. Office, 65 at 86 (October 21, 1997) (citations omitted).

Where, as here, the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, filing of an express abandonment or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, supra. An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

Further, as petitioner states that he was advised by the Office to wait to file the petition to revive, petitioner is again directed to 37 CFR 1.2:

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.

DECISION

The prior decision under 37 CFR 1.137(b), which refused to grant the petition to revive, for the above-identified application has been reconsidered. For the above stated reasons, the abandonment of this case cannot be regarded unintentional within the meaning of 35 USC 41(a)(7) and 37 CFR 1.137(b). Therefore, the application will not be revived and the application remains abandoned.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

Anthony Knight
Director
Office of Petitions

OK TO ENTER: /T.D./

1/5/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: GADEWAR *ET AL.*	§	**Group Art Unit: 1797**
Patent No.: 7,579,510	§	**Confirmation No.: 1242**
Issued: AUGUST 25, 2009	§	**Examiner: DANG, THUAN D.**
Title: "CONTINUOUS PROCESS FOR CONVERTING NATURAL GAS TO LIQUID HYDROCARBONS"	§	**Atty. Docket No.: 079463.0252**

ATTN: Certificate of Correction Branch
Honorable Commissioner of Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FILING ELECTRONICALLY
VIA EFS 37 C.F.R. § 1.8

I HEREBY CERTIFY THAT I HAVE A REASONABLE BASIS FOR BELIEF THAT THIS CORRESPONDENCE IS BEING SUBMITTED TO THE UNITED STATES PATENT AND TRADEMARK OFFICE VIA EFS (ELECTRONICALLY) ON THE DATE INDICATED BELOW, AND IS ADDRESSED TO:

ATTN: CERTIFICATE OF CORRECTION BRANCH
COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA, VA 22313-1450

/LARISSA PICCARDO/

Larissa Piccardo

DATE OF SUBMISSION: SEPTEMBER 9, 2010
ELECTRONIC FILING (EFS)

REQUEST FOR CERTIFICATE OF CORRECTION FOR APPLICANT'S MISTAKE PURSUANT TO 37 C.F.R. § 1.323

Dear Honorable Commissioner:

Enclosed is a Certificate of Correction, Form PTO-SB/44, for U.S. Patent No. 7,579,510, issued August 25, 2009. The following errors appear in the issued patent:

Claim 9, column 23, line 1

After "as recited in claim", insert --8-- and delete "1".

The errors are due to mistakes by Applicants. "When ever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director may, upon payment of the required fee, issue a certificate of

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OCT 26 2010

OFFICE OF PETITIONS

EUGENIO J. TORRES
221 PLAZA BUILDING
PONCE DE LEON, SUITE 403
SAN JUAN PR 00917

In re Application of :
Gustavo RODRIGUEZ-APARICIO :
Application No. 11/703,456 : ON PETITION
Filed: February 8, 2007 :
Attorney Docket No. 0434.001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 12, 2008.

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.

The Examiner assigned to this application has approved the Amendment filed July 26, 2010, for entry.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3611 for processing of the response filed July 26, 2010, in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/27/11

TO SPE OF : ART UNIT: 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/703,497 Patent No. 7,977,381

CofC mailroom date 12/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/703,560	02/06/2007	Kevin W. Sherbert	2007P00336US	5849

46726 7590 09/16/2011

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

EXAMINER	
PELHAM, JOSEPH MOORE	
ART UNIT	**PAPER NUMBER**
3742	

NOTIFICATION DATE	DELIVERY MODE
09/16/2011	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):

NBN-IntelProp@bshg.com

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY
DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of:
SHERBERT, KEVIN W.
Serial No. ~~11/7103,560~~ 11/703,560
Filed: Feb. 6, 2007
Docket: 2007P00336US
Title: COOKING APPLIANCE HAVING A BROILING ELEMENT WITH LOOPS OF NON-UNIFORM LENGTH

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the request filed Aug. 5, 2011 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed June 17, 2011.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. As such, the finality of the Office actions issued on June 17, 2011 is premature and the finality of the Office action is hereby withdrawn. Since the finality is being withdrawn, the amendment filed on Aug. 5, 2011 in response to the Office action of June 17, 2011 has been entered and treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3742 for consideration of the applicant's Rule 111 Amendment of Aug. 5, 2011. Any inquiry regarding this decision should be directed to Henry C. Yuen, Supervisory Patent Examiner, at (571) 272-4856.

PETITION GRANTED.

Sharon A. Gibson, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P 5Y6 CA CANADA

MAILED
OCT 29 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Tony Mai	:	FOR RECONSIDERATION OF
Patent Number: 7,705,642	:	PATENT TERM ADJUSTMENT
Issue Date: 04/27/2010	:	
Application No. 11/703634	:	
Filing or 371(c) Date: 02/08/2007	:	
Attorney Docket Number: 16548US02	:	

This is a decision on the petition filed on June 29, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seventy-eight (78) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred thirty-five (135) days is **DISMISSED**.

Applicants request an additional seventy-eight (78) days of patent term adjustment pursuant to 37 CFR 1.703(b), 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), February 11, 2010, and ending on the date the patent issued, April 27, 2010.

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 11, 2010, and ends on March 23, 2009, and is zero (0) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 57 days, not 135 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods/
Attorney
Office of Petitions

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Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Oren Tirosh, et al.	:	
Application No. 11/703,778	:	DECISION ON PETITION
Filed: February 8, 2007	:	TO WITHDRAW
Attorney Docket No. 06.078.01 (920-0076US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. §1.36(b), filed February 16, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **McAfee-Wong Cabello Lutsch Rutherford & Brocculeri LLP**
20333 Tombali Parkway, 6th Floor
Houston, TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

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RHONDA BARTON
P.O. BOX 24533
BALTIMORE, MARYLAND 21214

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Lyndon O. BARTON :
Application No. 11/703,817 : DECISION ON PETITION
Filed: February 8, 2007 :
Attorney Docket No. LOB-3 :

This is a decision on the petition under 37 CFR 1.59(b), filed December 28, 2010, to expunge information from the above identified application.

The petition is **GRANTED.**

Petitioner requests that a document containg a copy of applicant's birth certificate , filed Februaury 8, 2007, be expunged from the record. The certificate was submitted with a petition to make special on the basis of age. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 11/703,817 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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April 20, 2011

WILEY REIN LLP
1776 K. STREET N.W.
WASHINGTON DC 20006

In re Application of	:	
Mcginn, Denis, et al	:	**DECISION ON PETITION**
Application No. 11/703,829	:	
Filed: 02/08/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 81911-0003	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) August 6, 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.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/703,829	02/08/2007	Dennis McGinn	81911-0003	9298

7590 04/20/2011

WILEY REIN LLP
1776 K. STREET N.W.
WASHINGTON, DC 20006

EXAMINER	
KIRLIN, AMANDA C.	

ART UNIT	PAPER NUMBER
3629	

MAIL DATE	DELIVERY MODE
04/20/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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PETER LOFFLER
P.O. BOX 1001
NICEVILLE FL 32588-1001

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Vind et al.	:	
Application No. 11/703,889	:	ON PETITION
Filed: February 9, 2007	:	
Attorney Docket No. 370502	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $755.00 issue fee, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : April 4, 2012

In re Application of :

Joseph Roth

Application No : 11703899

Filed : 08-Feb-2007

Attorney Docket No : 12807.00-U06

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed April 4, 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.

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	11703899
Filing Date	08-Feb-2007
First Named Inventor	Joseph Roth
Art Unit	1785
Examiner Name	BRUCE HESS
Attorney Docket Number	12807.00-U06
Title	DUAL-SIDED THERMAL FORM CARD

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on

○ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

○ A sole inventor

○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.

○ A joint inventor; all of whom are signing this e-petition.

○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Paul W. Martin, Reg. # 34,870/
Name	Paul W. Martin
Registration Number	34870

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	11703899
Filing Date	08-Feb-2007
First Named Inventor	Joseph Roth
Art Unit	1785
Examiner Name	BRUCE HESS
Attorney Docket Number	12807.00-U06
Title	DUAL-SIDED THERMAL FORM CARD

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required ○ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ○ Drawing corrections and/ or other deficiencies are attached. ☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ○ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ○ A sole inventor ○ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors. ○ A joint inventor; all of whom are signing this e-petition. ○ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Paul W. Martin, Reg. #.34,870/
Name	Paul W. Martin
Registration Number	34870

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7,787,485 B2
Ser. No. : 11/703,912
Inventor(s) : Howe et al.
Issued : Aug. 31, 2010
Title : METHOD OF TRANSMITTING A HIGH-PRIORITY MESSAGE IN A LIGHTING CONTROL SYSTEM
Docket No. : P/10-885
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

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MAR 15 2011

OFFICE OF PETITIONS

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON, MA 02110

In re Patent No. **7,731,414**	:	
Issue Date: June 8, 2010	:	
Application No. 11/704,001	:	DECISION ON PETITION
Filed: February 8, 2007	:	UNDER 37 CFR 3.81(b)
Attorney Docket No. **INL-097**	:	

This is a decision on the petition filed August 17, 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) 272-7253. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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ROYLANCE, ABRAMS, BERDO & GOODMAN, LLP
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
John D. Denuzzio, et al.	:	
Application No. 11/704,186	:	DECISION GRANTING PETITION
Filed: February 9, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 53252	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 11, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 11, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment with drawings.

/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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,955,598	
Yoshizaki et al.	DECISION ON REQUEST FOR
Issue Date: June 7, 2011	RECONSIDERATION OF
Application No. 11/704,233	PATENT TERM ADJUSTMENT
Filed: February 9, 2007	
Attorney Docket No. 053466-0435	
Title: THERAPEUTIC AGENT FOR CHRONIC ARTHRITIDES DISEASES OF CHILDHOOD-RELATED DISEASES	

This is a decision on the petition filed under 37 CFR 1.705(d) on June 15, 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 five hundred eighty-nine (589) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Patentees' dispute the period of time excluded from B delay for appellate review. Patentees' argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen

prosecution (e.g. the filing of a request for continued examination).

In view thereof, no adjustment to the patent term will be made.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11704241
Filing Date	09-Feb-2007
First Named Inventor	Hidemi Kawai
Art Unit	2882
Examiner Name	MICHAEL LIU
Attorney Docket Number	123705.02
Title	CLEANUP METHOD FOR OPTICS IN IMMERSION LITHOGRAPHY USING SONIC DEVICE

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 2,2011

In re Application of :

Hidemi Kawai

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11704241

Filed : 09-Feb-2007

Attorney Docket No : 123705.02

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 2,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2882 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

3/31/2011

Patent No. :7876533
Inventor(s) :Sang-chul SHIN et al.
Issued : 1/25/2011
Title : BALANCER, HEAD STACK ASSEMBLY WITH THE SAME, AND METHOD FOR MANUFACTURING THE BALANCER AND OVERMOLD OF THE HEAD STACK ASSEMBLY
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[57] col.2 line1 is printed in accordance with the record please show evidence of supporting data or amendment.Also there are two an listed on the same line please specify. 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

STAAS & HALSEY
1201 New York Avenue, N.W.
7th Floor
Washigton, DC 20005

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application :
Adnan M.M. Mjalli et al. :
Application No. 11/704,431 : DECISION ON APPLICATION
Filed: February 9, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. :
TTP 2006-04-US-A

This is in response to the Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance filed August 24, 2010. Applicant requests that the determination of patent term adjustment be corrected from 218 days to 380 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED**.

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 two hundred sixteen (216) days including two days for applicant delay. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The instant application for patent term adjustment was timely filed[2] on or before payment of the issue fee.

On November 13, 2009, 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 218 days. Applicants state that on July 24, 2010, a Petition to Withdraw Application from Issue under 37 CFR § 1.313 was filed along with a Request for Continued Examination and an Information Disclosure Statement. On July 26, 2010, the petition to withdraw was granted. This period of Applicant delay under § 1.704 (c)(10)(i) is 2 days.

Specifically, 37 CFR 1.704(c) provides, in pertinent part, that:

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[2]PALM records indicate that the issue fee was paid on August 24, 2010.

> 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; ...
>
> > With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A review of the record confirms that a period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10). The filing of the RCE and IDS after the mailing of the Notice of Allowance on November 13, 2009 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 2 days, counting the number of days for the Petition to Withdraw Application from Issue under 37 CFR § 1.313 filed along with a Request fol Continued Examination and an Information

Disclosure beginning on July 24, 2010, to July 26, 2010, the date the petition to withdraw was granted. Accordingly, a period of reduction of 2 days is being entered.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is TWO HUNDRED SIXTEEN (216) days (218 days of Office delay reduced by 2 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11704431 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11704431

Application Filing Date	02/09/2007	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	218
A Delays	218	PTO Manual Adjustment	-2
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	216

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
89	09/20/2010		P028	Adjustment of PTA Calculation by PTO	2		0
83	08/11/2010		MN/=.	Mail Notice of Allowance			0
82	08/11/2010		IREV	Issue Revision Completed			0
81	08/11/2010		DVER	Document Verification			0
80	08/11/2010		N/=.	Notice of Allowance Data Verification Completed			0
79	08/11/2010		DOCK	Case Docketed to Examiner in GAU			0
78	08/10/2010		EX.A	Examiner's Amendment Communication			0
77	08/10/2010		CNTA	Notice of Allowability			0
75	07/30/2010		IDSC	Information Disclosure Statement considered			0
74	07/30/2010		M844	Information Disclosure Statement (IDS) Filed			0
73	07/30/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
71	07/28/2010		ABN9	Disposal for a RCE / CPA / R129			0
61	07/27/2010		PTAC	Patent Issue Date Used in PTA Calculation			0
69	07/26/2010		MP015	Mail-Record Petition Decision of Granted to Withdraw from Issue - with assigned Patent NO.			0
68	07/26/2010		P015	Record Petition Decision of Granted to Withdraw from Issue - with assigned Patent NO.			0
67	07/26/2010		WFIS	Withdrawal Patent Case from Issue			0
76	07/24/2010		IDSC	Information Disclosure Statement considered			0
72	07/24/2010		RCEX	Request for Continued Examination (RCE)			0
70	07/24/2010		M844	Information Disclosure Statement (IDS) Filed			0
66	07/24/2010		PET.	Petition Entered			0
64	07/24/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
63	07/24/2010		BRCE	Workflow - Request for RCE - Begin			0
62	07/07/2010		WPIR	Issue Notification Mailed			0
60	06/30/2010		EFDC	Export to Final Data Capture			0
59	06/29/2010		D1935	Dispatch to FDC			0
58	06/23/2010		MPTDI	Mail-Petition Decision - Dismissed			0
57	06/23/2010		PTDI	Petition Decision - Dismissed			0
55	02/22/2010		PILS	Application Is Considered Ready for Issue			0
56	02/12/2010		PET.	Petition Entered			0
54	02/12/2010		N084	Issue Fee Payment Verified			0
53	02/12/2010		IFEE	Issue Fee Payment Received			0
52	12/28/2009		FIDC	Finished Initial Data Capture			0
51	11/16/2009		EIDC	Export to Initial Data Capture			0
50	11/13/2009		MEX.A	Mail Examiner's Amendment			0
49	11/13/2009		MN/=.	Mail Notice of Allowance			0
48	11/09/2009		IREV	Issue Revision Completed			0
47	11/09/2009		DVER	Document Verification			0
46	11/09/2009		N/=.	Notice of Allowance Data Verification Completed			0
45	11/09/2009		EX.A	Examiner's Amendment Communication			0
43	11/09/2009		CNTA	Notice of Allowability			0
44	11/03/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
40	09/03/2009		FWDX	Date Forwarded to Examiner			0
42	07/20/2009		IDSC	Information Disclosure Statement considered			0
41	07/20/2009	07/20/2009	M844	Information Disclosure Statement (IDS) Filed			39
39	07/20/2009		A...	Response after Non-Final Action			0
38	07/20/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
37	04/30/2009		MCTNF	Mail Non-Final Rejection			0
36	04/27/2009		CTNF	Non-Final Rejection			0
28	02/18/2009		FWDX	Date Forwarded to Examiner			0
34	01/13/2009		IDSC	Information Disclosure Statement considered			0
30	01/13/2009		RCAP	Reference capture on IDS			0
29	01/13/2009	01/13/2009	M844	Information Disclosure Statement (IDS) Filed			27
27	01/13/2009		ELC.	Response to Election / Restriction Filed			0
26	01/13/2009		XT/G	Request for Extension of Time - Granted			0
25	01/13/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
24	11/13/2008	04/09/2008	MCTRS	Mail Restriction Requirement	218		-1
23	11/10/2008		CTRS	Requirement for Restriction / Election			0
20	03/07/2008		DOCK	Case Docketed to Examiner in GAU			0
35	09/28/2007		IDSC	Information Disclosure Statement considered			0
19	09/28/2007		RCAP	Reference capture on IDS			0
18	09/28/2007		M844	Information Disclosure Statement (IDS) Filed			0
17	09/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
16	09/25/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	09/20/2007		PG-ISSUE	PG-Pub Issue Notification			0
14	06/29/2007		OIPE	Application Dispatched from OIPE			0
13	06/11/2007		PGPC	Sent to Classification Contractor			0
12	06/11/2007		COMP	Application Is Now Complete			0
11	06/11/2007		C.AD	Correspondence Address Change			0
8	05/29/2007		ADDFLFEE	Additional Application Filing Fees			0
7	05/29/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
6	03/30/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	03/02/2007		L194	Cleared by OIPE CSR			0
3	03/02/2007		CLSS	CASE CLASSIFIED BY OIPE			0
2	02/24/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	02/12/2007		IEXX	Initial Exam Team nn			0

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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
Katrina Mikhaylichenko et al. :
Application No. 11/704,435 : DECISION ON PETITION
Filed: February 8, 2007 :
Attorney Docket No. LAM2P563 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on August 20, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on November 23, 2010. A Notice of Abandonment was mailed on 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 corrected drawings, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings 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 Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW CA 94043

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Application:
Sun et al.
Application No. 11/704,451
Filed: February 9, 2007
Attorney Docket No. 1405A-00200 (N104-00)

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 17, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DONN K. HARMS
PATENT & TRADEMARK LAW CENTER
SUITE 100
12702 VIA CORTINA
DEL MAR CA 92014

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FEB 07 2012
OFFICE OF PETITIONS

In re Application of :
COZZA, FRANK CHARLES :
Application No. 11/704,474 : DECISION ON PETITION
Filed: 02/08/2007 :
Attorney Docket No. 3581-PAT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 13, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 14, 2009. A Notice of Abandonment was mailed on December 15, 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, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3652 for appropriate action by the Examiner on the reply received on December 27, 2011.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW CA 94043

MAILED

SEP 2 3 2010

OFFICE OF PETITIONS

In re Application of :
BRETT M. WINGEIER ET AL. :
Application No. 11/704,534 : NOTICE
Filed: February 8, 2007 :
Attorney Docket No. **N102** :

This is a notice regarding your request filed August 16, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW CA 94043

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SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Boling et al.	:	
Application No. 11/704,549	:	ON PETITION
Filed: February 8, 2007	:	
Attorney Docket No. 459992002500(N103)	:	

This is a notice regarding your request, August 16, 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.

The application is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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LANGLOTZ PATENT & TRADEMARK WORKS, INC.
PO BOX 96503 #37585
Washington DC 20090-6503

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Martin J. Bordson :
Application No. 11/704,592 : DECISION ON PETITION
Filed: February 9, 2007 :
Attorney Docket No. BO-1C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 13, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 14, 2010. A Notice of Abandonment was mailed on April 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.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received August 20, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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FEB 19 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PRICE & ADAMS, P.C.
4135 BROWNSVILLE ROAD
P.O. BOX 98127
PITTSSBURGH, PA 15227-0127

In re Application of :
Scott Muirhead :
Application No. 11/704,612 :
Filed: February 8, 2007 :
Attorney Docket No. 9195 :

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR §1.313

The above-identified application is withdrawn from issue after payment of the issue due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Daniel Wu at (571) 272-2964.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Mark R. Powell

Mark Powell, Director
Technology Center 2600

CC: Office of Publications:

Patent Clerk, Randolph Square - 9D30-B
Supervisory Correspondence Clerk, Randolph Square – 9D35

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BIOMIMETIC THERAPEUTICS INC.
C/O MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO CA 94304-1018

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,799,754 :
Issued: September 21, 2010 :
Application No. 11/704,685 : ON PETITION
Filed: February 9, 2007 :
Attorney Docket No. 597792000100 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 8, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

JUL 06 2011

OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of :
Paul LUNDQUIST et al. : ON PETITION
Application No. 11/704,689 :
Filed: February 9, 2007 :
Atty. Docket No.: 105-000701US

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 application was held abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed January 10, 2011, which set a statutory period for reply of three (3) months. The application became abandoned on April 11, 2011. A Notice of Abandonment was mailed April 25, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice of Allowance and Fee(s) Due, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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 Office of Data Management for further processing.

Anthony Knight
Director
Office of Petitions

cc: Robert H. Reamey, Ph.D.
1380 Willow Road
Menlo Park, California 94025

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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NOV 22 2010

OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of :
Limberg : DECISION ON PETITION
Application No. 11/704,794 :
Filed: February 9, 2007 :
Atty. Dkt. No.: Q116342 :

This decision is in response to the petition under 37 CFR 1.137(b), filed October 4, 2010.

The petition is **GRANTED**.

The application became abandoned April 9, 2010 for failure to timely submit a proper reply to the non-final Office action mailed January 8, 2009. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed August 4, 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 2611 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Brinks Hofer Gilson &
Lione/Elevance
P.O. Box 10395
Chicago IL 60611

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,951,232	:	
Zullo et al.	:	ON REQUEST FOR
Issue Date: May 31, 2011	:	RECONSIDERATION OF
Application No. 11/704,800	:	PATENT TERM ADJUSTMENT
Filed: February 9, 2007	:	
Atty Docket No. 13687/42	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed May 25, 2011.

The request is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

Patentee requests that the Office review the calculation of patent term adjustment for the above-identified patent and make corrections using a certificate of correction if necessary. Patentee states that 301 days may extend the term of the patent by too many days and that they believe the correct number of days is 290.

Patentee's attention is directed to the Office Notice entitled Treatment of Letters Stating That the USPTO's Patent Term Adjustment Determination Is Greater Than What the Applicant or Patentee Believes Is Appropriate, 75 FR 138 (July 20, 2010), which clarifies that, the Office:

> will treat letters submitted by applicants and patentees stating that the USPTO's patent term adjustment determination indicated on a notice of allowance, issue notification, or patent is greater than what the applicant or patentee believes is appropriate by placing these letters in the file of the application or patent without

> comment. The USPTO will no longer review these letters or issue certificates of correction under either 35 U.S.C. 254 or 255 on the basis of a review of these letters. In addition, the USPTO will not grant a request for a certificate of correction under either 35 U.S.C. 254 or 255 to revise the patent term adjustment indicated in a patent, except in the two situations discussed previously.
>
> ...
>
> If the applicant or patentee wants the USPTO to reconsider its patent term adjustment determination, the applicant or patentee must use the procedures set forth in 37 CFR 1.705 for requesting reconsideration of a patent term adjustment determination, whether the USPTO's patent term adjustment determination is greater than or less than the adjustment that the applicant or patentee believes to be appropriate. A patentee may also file a terminal disclaimer at any time disclaiming any period considered in excess of the appropriate patent term adjustment. See 35 U.S.C. 253 and 37 CFR 1.321. However, the USPTO does not require an applicant or patentee to file either a request for reconsideration under 37 CFR 1.705 or a terminal disclaimer when the patent term adjustment indicated on a notice of allowance, issue notification, or patent is greater than what the applicant or patentee believes is appropriate.

Here, patentee is not disclosing a mistake in a patent that "is clearly disclosed by the records of the Office." Rather, patentee is requesting reconsideration of the determination. 37 CFR 1.705(d) provides the avenue before the Office for requesting reconsideration of the revised patent term adjustment indicated in the patent. See § 1.702-1.705. Moreover, pursuant to § 1.705(b), this section requires payment of:

> (1) The fee set forth in § 1.18(e) ...

The instant paper was timely filed within two months of the issuance of the patent. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request.

It is further noted that the request for review does not include a statement of the facts involved. (Nor does patentee indicate

that the instant paper is being filed pursuant to their duty of candor and good faith to the Office).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

GlaxoSmithKline
GLOBAL PATENTS -US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

In re Application of	:	
Ian Tomlinson et al.	:	
Application No. 11/704,832	:	DECISION ON PETITION
Filed: February 8, 2007	:	
Attorney Docket No. DB00053	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed February 15, 2011. The Notice set a period for reply of one (1) month or thirty (30) days 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 March 16, 2011. The Notice of Abandonment was mailed on 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 a Sequence Listing, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the Sequence Listing is accepted as being 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.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the reply received October 13, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 10 2012

OFFICE OF PETITIONS

GlaxoSmithKline
GLOBAL PATENTS -US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

In re Application of :
Ian Tomlinson et al. :
Application No. 11/704,832 : CORRECTED DECISION ON PETITION
Filed: February 8, 2007 :
Attorney Docket No. DB00053 :

This is a corrected decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed February 15, 2011. The Notice set a period for reply of one (1) month or thirty (30) days 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 March 23, 2011. The Notice of Abandonment was mailed on November 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Sequence Listing, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the Sequence Listing 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 1642 for appropriate action by the Examiner in the normal course of business on the reply received December 23, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
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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ALFRED W. FROEBRICH, ESQ.
COHEN PONTANI LIEBERMAN & PAVANE LLP
SUITE 1210
551 FIFTH AVENUE
NEW YORK NY 10176

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JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Alan Amron	:	
Application No. 11/704,847	:	DECISION ON PETITION
Filed: February 9, 2007	:	
Attorney Docket No. 5721-2CIP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, July 8, 2010, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on January 11, 2010 wherein petitioner filed a Request for Continued Examination.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114 (previously submitted on January 10, 2010), (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3714 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed January 10, 2011.

Joan Olszewski
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Patent of Yamazaki, et al. :
Patent No. 7,833,991 :
Issue Date: November 16, 2010 : DECISION ON
Application No. 11/704,860 : REQUEST FOR RECONSIDERATION
Filed: February 9, 2007 : OF
Atty Docket No. FJIN-118CIP : PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed January 17, 2011. Patentees request that the revised patent term adjustment indicated on the patent be corrected from one hundred eleven (111) days to one hundred fifty-eight (158) days.

The petition is **GRANTED to the extent indicated below.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred fifty-six (156) days.**

On November 16, 2010, the above-identified application matured into U.S. Patent No. 7,833,991 with a revised patent term adjustment of 111 days. On Monday, January 17, 2011, patentees timely filed the instant petition. The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees argues that the patent term adjustment indicated in the patent is incorrect and should be recalculated because the Office should not have charged applicants with a 47 day reduction under 37 CFR 1.704(c)(10) for the filing of a "Letter Clarifying Notice of Allowance" on October 1, 2010, after the mailing of the Notice of Allowance on July 1, 2010.

A review of the application history reveals patentees are correct. A Notice of Allowance was mailed on July 1, 2010. On

October 1, 2010, applicants filed a "Letter Clarifying Notice of Allowance" because applicant noticed errors in the Notice of Allowability.

The filing of the October 1, 2010 "Letter Clarifying Notice of Allowance" is **not** a basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10).

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude

processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

The "Letter Clarifying Notice of Allowance," filed October 1, 2010, falls within exception (6) listed above.

As such, no reduction pursuant to 37 CFR 1.704(c)(10) is warranted in connection with the filing of the October 1, 2010, Letter Clarifying Notice of Allowance." The 47 day reduction is being removed from the patent term adjustment record.

A review of patent term calculations for the application has revealed two errors associated with a reply filed on March 12, 2009.

A non-final Office action was mailed on November 12, 2008. On March 12, 2009, **not March 11, 2009**, as indicated in the current PAIR calculations for Application No. 11/704,860, applicants filed a reply. Therefore, pursuant to 37 CFR § 1.704(b), any patent term adjustment in this application is subject to a reduction of 28, not 27, days for applicant delay for the period beginning on February 13, 2009, the day after the date that is three months after the mailing date of the November 12, 2008 non-final Office action, and ending on March 12, 2009, the date the reply was filed. The 27 day reduction is being removed and a 28 day reduction is being entered.

Applicants reply was filed on March 12, 2009, not March 11, 2009. Therefore, the Office's delay pursuant to 37 CFR 1.702(a)(2) begins on July 13, 2009, the day after the date that is four months after applicants' reply was filed, and ends on July 22, 2009, the date the Office mailed a final Office action.

The 11 day adjustment is being removed and a 10 day adjustment is being entered.

Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred fifty-six (156) days, which is 185 (139 + 10 + 36) days of A delay + 0 days of B delay minus 29 (28 + 1) days of applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The 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 **one hundred fifty-six (156)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,833,991 B2

DATED : **November 16, 2010** **DRAFT**

INVENTOR(S) : Yamazaki et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C 154(b) by 111 days

Delete the phrase "by 111 days" and insert – by 156 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAR 10 2011

OFFICE OF PETITIONS

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

In re Application of :
Anthony E. Stavale, et al. :
Application No. 11/704,891 : ON PETITION
Filed: February 9, 2007 :
Attorney Docket No.: 911-002.023-2 (06GI001US) :

This is a decision on the petition, filed December 13, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before November 12, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 11, 2010. Accordingly, the application became abandoned on November 13, 2010. A Notice of Abandonment was mailed on December 7, 2010. On December 12, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, the publication fee of $300, and corrected formal drawings; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCCORMICK PAULDING & HUBER LLP
185 ASYLUM ST
CITY PLACE II
HARTFORD CT 06103

MAILED

DEC 22 2011

OFFICE OF PETITIONS

In re Application of :
Dean Kamen et al :
Application No. 11/704,899 : DECISION GRANTING PETITION
Filed: February 9, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7922A-0008 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 22, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 29, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3763 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

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.
11/705,001	02/12/2007	W. Thomas Novak	123694.01	4269

25944 7590 07/14/2011

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
FULLER, RODNEY EVAN	

ART UNIT	PAPER NUMBER
2862	

NOTIFICATION DATE	DELIVERY MODE
07/14/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com
jarmstrong@oliff.com

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Patent No. NOVAK ET AL.
Issue Date: March 18, 2008
Appl No.: 11/705,001
Filed: February 12, 2007
For: **ENVIRONMENTAL SYSTEM INCLUDING A TRANSPORT REGION FOR AN IMMERSION LITHOGRAPHY APPARATUS**

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed March 31, 2011 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

CLAYTON E. LABALLE
Supervisory Patent Examiner
Art Unit 2862

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.
11/705,100	02/12/2007	Takahiro Kimura	04329.4104-00000	3837

7590 11/05/2010
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
JONES, HEATHER RAE

ART UNIT	PAPER NUMBER
2481	

MAIL DATE	DELIVERY MODE
11/05/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 11/05/2010 [illegible]
02 FC:1111 -[illegible]

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Hashimshony et al. :
Application No. 11/705,143 : ON PETITION
Filed: February 12, 2007 :
Attorney Docket No. 32529 :
For: PROBES, SYSTEMS, AND METHODS FOR EXAMINING TISSUE ACCORDING TO THE DIELECTRIC PROPERTIES THEREOF

This is a decision on the petition, filed January 31, 2011, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 9, 2010 non-final Office action. No response being received and no proper extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on October 10, 2010.

Applicants have submitted an amendment in reply to the July 9, 2010 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 9, 2010 non-final Office action, and the $810.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

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 January 31, 2011

was submitted subsequent to the expiration of the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

After the mailing of this decision, the application will be returned to Technology Center AU 3736 for consideration of the amendment filed on January 4, 2011.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

MAILED

DEC 0 1 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Talluri V. Chanakya et al :
Application No. 11/705,288 :
Filed: February 12, 2007 :
Attorney Docket No. CD06126 :

This is in response to the petition, filed April 21, 2010 which is being treated as a petition under 37 CFR 1.183 requesting waiver of the requirements of 37 CFR 1.64.

The petition is **DISMISSED.**

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 has not been presented. The supplemental declaration filed April 21, 2010 does not list all of the inventors as required by 37 CFR 1.63(a)(2). Accordingly, a supplemental declaration in compliance with 37 CFR §§ 1.63 (a)(2), (c)(1) and 1.64 signed by the signing inventor must be submitted. Note MPEP Section 409.03(a)

In view of the supplemental declaration, the petition is dismissed for failure to comply with 37 CFR 1.183 as the supplemental declaration submitted fails to comply with 37 CFR 1.63 and 1.64.

As the instant petition is being treated as a petition under 37 CFR 1.183, the petition fee of $400 set forth in 37 CFR 1.17(f) is required. Accordingly, the $400 petition fee is being charged to petitioner's Deposit Account No. 50-3467.

Telephone inquiries regarding this decision should be directed to the Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 04 2011

OFFICE OF PETITIONS

CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

In re Application of :
Talluri V. Chanakya et al. : DECISION ON PETITION
Application No. 11/705,288 :
Filed: February 12, 2007 :
Atty Docket No. CD06126 :
:

This is a decision on the petition filed May 25, 2011, which is being treated as a renewed petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where it require that a supplemental declaration be executed by a named inventor.[1]

The petition is **GRANTED**.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.63

Petitioner has provided a proper oath or declaration executed by the available joint inventor.

In view of the efforts to locate and obtain the signature of Talluri V. Chanakya on the substitute declaration in compliance with 37 CFR §§ 1.67 and 1.63, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Talluri V. Chanakya on the substitute declaration filed on May 25, 2011.

CONCLUSION

1. The petition is granted.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

2. The application is being forwarded to Technology Center Art Unit 2827 for further processing.

3. Telephone inquiries related to this decision should be directed to Irvin Dingle at (571) 272-3210.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

/David Bucci/
Petitions Examiner
Office of Petition

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 31, 2011

TO SPE OF : ART UNIT 3611 SPE Lesley D. Morris

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/705,331 Patent No.: 7,793,965 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the change to FIG. 7 and claim 3 be approved as requested by applicant?

See COCIN dated 01-20-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

APPROVED

SPE /PAUL N. DICKSON/ _____ **Art Unit** 3611

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED

MAR 07 2012

OFFICE OF PETITIONS

In re Application of
Devellian et al.
Application No 11/705,380
Filed: February 12, 2007
Attorney Docket No. 10983.004.01000

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 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 September 8, 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 timely extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 9, 2010. A Notice of Abandonment was mailed on March 24, 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 $930.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1270 extension of time fee submitted on February 7, 2012 was subsequent to the maximum extendable period for reply, the fees will be refunded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3733 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford MA 01886

MAILED
FEB 02 2012
OFFICE OF PETITIONS

In re Patent No. 7,829,551 :
Issue Date: November 9, 2010 :
Application No. 11/705,389 : ON PETITION
Filed: February 12, 2007 :
Attorney Docket No. 4124.3006 US1 :

This is a decision on the petition filed January 19, 2012, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Thornton & Ross Limited."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Durminster Limited to Thornton & Ross Limited was recorded on March 10, 2011, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to then undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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McCarthy Tetrault LLP
Box 48
Suite #4700 Toronto Dominion Bank Tower
TORONTO ON M5K 1E6 CA CANADA

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Pacione :
Application No 11/705,444 : ON PETITION
Filed: February 13, 2007 :
Attorney Docket No. 194133-386624(T1222-12-U :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 7, 2011. A Notice of Abandonment was mailed on August 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 a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; 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 $1110 extension of time fee submitted on November 23, 2010 was subsequent to the maximum extendable period for reply, the fees will be refunded to deposit account 19-5113.

A change of address was filed on petition, however the change of address will not be entered as Christopher Hunter is acting in representative capacity pursuant to 37 CFR 1.34. As such pursuant to 37 CFR 1.33 (a)(2) the change of address will not be entered. A courtesy copy of this

decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3633 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: NORTON ROSE OR LLP
1, PLACE VILLE MARIE
SUITE 2500
MONTREAL, CANADA H3B 1-R1

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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GEORGE A. ROLSTON
45 SHEPPARD AVE EAST
SUITE 900
TORONTO ON M2N5W-9 CANADA

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FEB 08 2012

OFFICE OF PETITIONS

In re Application of :
FERRAND D.E. CORLEY :
Application No. 11/705,470 : DECISION ON PETITION
Filed: February 13, 2007 :
Attorney Docket No. 1206U108 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 4, 2012, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/722,901 as set forth in the amendment to the specification submitted on November 1, 2011. This is also in response to the petition under 37 CFR 1.137(b) filed January 4, 2012.

The petition under 37 CFR 1.137(b) is **DISMISSED** as moot because the present application is not abandoned.

The petition under 37 CFR 1.78(a)(6) 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 Director may require additional information where there is a question whether the delay was unintentional.

The petition lacks item (1) above.

A review of Office computer database records indicates that there is a lack of common inventorship between the instant nonprovisional application and provisional Application No. 60/722,901 noted in the amendment submitted on November 1, 2011, and the present petition. The statute requires that the applications claiming benefit of the earlier filing date under 35 U.S.C. §§ 119(e) or 120 be filed by an inventor or inventors named in the prior-filed nonprovisional or provisional application.

The Office further notes that the present nonprovisional Application No. 11/705,470 was filed on February 13, 2007, more than within 12 months from the September 30, 2005 filing date of prior-filed provisional Application No. 60/722,901. As stated in MPEP 201.11(III)(C):

> 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. Although an application that itself directly claims the benefit of a provisional application is not required to specify the relationship to the provisional application, if the instant nonprovisional application is not filed within the 12 month period, but claims the benefit of an intermediate nonprovisional application under 35 U.S.C. 120 that was filed within 12 months from the filing date of the provisional application and claimed the benefit of the provisional application, the intermediate application must be clearly identified as claiming the benefit of the provisional application so that the Office can determine whether the intermediate nonprovisional application was filed within 12 months of the provisional application and thus, whether the claim is proper.

Therefore, the amendment to the specification filed November 1, 2011, is not acceptable as drafted because it improperly seeks to claim priority under 35 U.S.C. § 119(e) to provisional Application No. 60/722,901 filed September 30, 2005.

It is noted that applicants may have made a typographical error in identifying Application No. 60/722,901 in the amendment and petition. Instead, applicants may have intended to claim the benefit of priority to Application No. **60/772,901** filed February 14, 2006.

Accordingly, applicants must file a petition entitled "Renewed Petition under 37 CFR 1.78(a)(6)", accompanied by either a Supplemental Application Data Sheet or an amendment to the first line of the specification correcting the benefit claim. No additional petition fee is required. The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, a Supplemental ADS or an amendment submitted with any renewed petition under 37 CFR 1.78(a)(6) must be signed in accordance with 37 CFR 1.33(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Correspondence may also be submitted via EFS-Web.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 900
TORONTO ON M2N5W-9 CANADA

MAILED
MAR 05 2012
OFFICE OF PETITIONS

In re Application of :
FERRAND D.E. CORLEY :
Application No. 11/705,470 : DECISION ON PETITION
Filed: February 13, 2007 :
Attorney Docket No. 1206U108 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 27, 2012, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/772,901 as set forth in the concurrently filed amendment to the specification.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the present nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim under 35 U.S.C. 119(e) for the benefit of the prior-filed provisional application 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 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 benefit claim to the prior-filed provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 2457 for consideration by the examiner of the claim under 35 U.S.C. 119(e) for the benefit of the prior-filed provisional application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/705,470	02/13/2007	2457	500	1206U108	16	2

CONFIRMATION NO. 7776

CORRECTED FILING RECEIPT

3176
GEORGE A. ROLSTON
45 SHEPPARD AVE EAST
SUITE 900
TORONTO, ON M2N5W9
CANADA

Date Mailed: 03/02/2012

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)

Ferrand D. E. Corley, Mississauga, CANADA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/772,901 02/14/2006

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: 04/05/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/705,470**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Security camera image correction system and method

Preliminary Class

348

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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UNITED STATES PATENT AND TRADEMARK OFFICE

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HUNG HOM KOWLOON HK HONG KONG

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application of :
Leung, et al. :
Application No. 11/705,522 : DECISION
Filed/Deposited: 13 February, 2007 :
Attorney Docket No. IP-367A :

This is a decision on the petition filed on 10 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 22 July, 2010, with reply due absent extension of time on or before 22 October, 2010.

The application went abandoned by operation of law after midnight 22 October, 2010.

The Office mailed a Notice of Abandonment on 16 February, 2011.

On 10 August, 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, *inter alia*, an amendment, and made the statement of unintentional delay.

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.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3736 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Jonathan A. Bay
Ste. 410
1736 E. Sunshine
Springfield MO 65804

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Application of :
Robert G. Nothum Jr., et al. :
Application No. 11/705,551 : DECISION ON PETITION
Filed: February 12, 2007 :
Attorney Docket No. **337-33** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2011, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee on or before June 14, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 14, 2011. Accordingly, the date of abandonment of this application is June 15, 2011.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $870, (2) the petition fee of $930; 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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MARTIN D. MOYNIHAN
d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of :
Oren, et al. :
Application No. 11/705,745 : DECISION ON PETITION
Filed: 14 February, 2007 :
Attorney Docket No. 33958 :

This is a decision on the petition filed on 16 February, 2011, requesting correction of the name of the inventor/applicant, and considered for relief under 37 C.F.R §1.182.

NOTE:

Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct—as well as the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner appears to have submitted a corrected/replacement oath/declaration or application data sheet (ADS).

The petition under 37 C.F.R §1.182 is **DISMISSED**.

A 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. §1.182."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

The guidance in the Commentary set forth at MPEP§605.04(c) directs Petitioner to the proper procedure herein:

605.04(c)Inventor Changes Name [R-5]

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and **>a statement< signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a * copy of the court order.

Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee.

If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name.

If the petition is granted, if the application is maintained in paper with a file jacket label (i.e., the application is an 08/ or earlier series application), the original declaration must be marked in red ink, in the left margin "See paper No. _ for correction of inventor name" and the application should be sent to the Office of Initial Patent Examination (OIPE) for change of name on the file wrapper and in the PALM database. If the petition is granted in an Image File Wrapper (IFW) application or if the application is an 09/ or later series application, the spelling of the inventor's name should be changed in the Office computer records and a new PALM bib-data sheet should be printed. If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 CFR 1.21(h) to the Assignment Division for a change in the assignment record. (Emphasis supplied)

BACKGROUND

A search of the file indicates that:

The instant application was filed, Petitioner indicates, with another form as to an inventor's name—the name having been typed and signed in that form. (Petitioner states that it was "Alan F. Barber," however, the corrected for is to be "F. Alan Barber."

On 16 February, 2011, Petitioner indicated to the Office that the name of inventor/applicant should be corrected to overcome the incorrect form of the name of the inventor.

As noted above, it also does not appear that Petitioner submitted an executed oath/declaration in the "corrected" form—an updated application data sheet (ADS) appears to have been submitted, the latter of which may not be required but should be included.

Moreover, Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.182 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

[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.

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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARTIN D. MOYNIHAN
d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re Application of :
Oren, et al. :
Application No. 11/705,745 : DECISION ON PETITION
Filed: 14 February, 2007 :
Attorney Docket No. 33958 :

This is a decision on the petition filed on 3 July, 2011, requesting correction of the name of the inventor/applicant, and considered for relief under 37 C.F.R §1.182.

NOTE:

For the second time Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct—as well as the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner appears to have submitted a corrected/replacement oath/declaration, but no application data sheet (ADS).

The petition under 37 C.F.R §1.182 is **DISMISSED**.

A 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. §1.182."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

The guidance in the Commentary set forth at MPEP§605.04(c) directs Petitioner to the proper procedure herein:

605.04(c)Inventor Changes Name [R-5]

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and **>a statement< signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a * copy of the court order.

Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee.

If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name.

If the petition is granted, if the application is maintained in paper with a file jacket label (i.e., the application is an 08/ or earlier series application), the original declaration must be marked in red ink, in the left margin "See paper No. _ for correction of inventor name" and the application should be sent to the Office of Initial Patent Examination (OIPE) for change of name on the file wrapper and in the PALM database. If the petition is granted in an Image File Wrapper (IFW) application or if the application is an 09/ or later series application, the spelling of the inventor's name should be changed in the Office computer records and a new PALM bib-data sheet should be printed. If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 CFR 1.21(h) to the Assignment Division for a change in the assignment record. (Emphasis supplied)

BACKGROUND

A search of the file indicates that:

The instant application was filed, Petitioner indicates, with another form as to an inventor's name—the name having been typed and signed in that form.

On 16 February, 2011, and again on 3 July, 2011, Petitioner indicated to the Office that the name of inventor/applicant should be corrected to overcome the incorrect form of the name of the inventor.

It does not appear that Petitioner submitted an updated application data sheet (ADS).

Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.182 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

[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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

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OFFICE OF PETITIONS

In re Application of :
Oren, et al. :
Application No. 11/705,745 : DECISION ON PETITION
Filed: 14 February, 2007 :
Attorney Docket No. 33958 :

This is a decision on the petition filed on 12 September, 2011, requesting correction of the name of the inventor/applicant, and considered for relief under 37 C.F.R §1.182.

NOTE:

For the third time Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct—as well as the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner appears to have submitted a corrected/replacement oath/declaration, but no application data sheet (ADS).

The Office attempted to contact Petitioner with regard to this matter, but was only allowed to leave a phone message.

The petition under 37 C.F.R §1.182 is **DISMISSED**.

A 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. §1.182."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

The guidance in the Commentary set forth at MPEP§605.04(c) directs Petitioner to the proper procedure herein:

> **605.04(c)Inventor Changes Name [R-5]**
>
> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and **>a statement< signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a * copy of the court order.
>
> Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee.
>
> If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name.
>
> If the petition is granted, if the application is maintained in paper with a file jacket label (i.e., the application is an 08/ or earlier series application), the original declaration must be marked in red ink, in the left margin "See paper No. _ for correction of inventor name" and the application should be sent to the Office of Initial Patent Examination (OIPE) for change of name on the file wrapper and in the PALM database. If the petition is granted in an Image File Wrapper (IFW) application or if the application is an 09/ or later series application, the spelling of the inventor's name should be changed in the Office computer records and a new PALM bib-data sheet should be printed. If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 CFR 1.21(h) to the Assignment Division for a change in the assignment record. (Emphasis supplied)

BACKGROUND

A search of the file indicates that:

The instant application was filed, Petitioner indicates, with another form as to an inventor's name—the name having been typed and signed in that form.

On 16 February, 2011, and again on 3 July, 2011, Petitioner indicated to the Office that the name of inventor/applicant should be corrected to overcome the incorrect form of the name of the inventor. It did not that Petitioner submitted an updated application data sheet (ADS). More importantly, Petitioner did not include with the petition and fee the required declaration by the inventor/applicant, signed in both forms of the inventor/applicant's name—that averred to have been incorrect and that averred to be correct. The successive petitions were dismissed on 9 May, 2011, and 15 August, 2011, respectively.

On

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.182 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[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.

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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Patent No. 7,780,794 :
Issued: August 24, 2010 :
Application No. 11/705,805 : ON PETITION
Filed: February 12, 2007 :
Attorney Docket No: **35839-501001 US**

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON FACE OF PATENT UNDER 37 C.F.R. § 1.705(d) filed October 22, 2010. Applicant requests that the determination of patent term adjustment be corrected from 591 days to 631 days.

The application for patent term adjustment-post grant is **DISMISSED**.

On August 24, 2010, the above-identified application matured into U.S. Patent No. 7,780,794 with a revised patent term adjustment of 591 days. The instant application for patent term adjustment (with required fee), asserts that after the issuance of the patent, additional delays were recorded that revised the Patent Term Adjustment. Pursuant to 37 C.F.R. § 1.704(c)(10), a period of reduction totaling 40 days was entered for applicant filing papers after the mailing of the notice of allowance. Applicants argues that the filing of the corrected drawings was submitted at the express request of the Examiner, made in the Notice of Allowance. Accordingly, the submission of the drawing should not be deemed a failure to engage in reasonable efforts to conclude processing or examination of an application under 37 CFR § 1.704(c)(10) and disputes the reduction of 40 days of applicant delay.

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;

The reduction has been considered and a reduction is found to be warranted. It is undisputed that the drawings were filed July 16, 2010 after the mailing of the Notice of Allowance. Irrespective of the request for corrected drawings, this was properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

The filing of corrected drawings is clearly stated as a failure to engage. It is undisputed that such drawings were filed. The fact that applicant believes the drawings were requested by the Examiner by way of the Notice of Allowability, does not negate the fact that the drawings were not proper even before the Notice of Allowability was mailed, thus, applicant by definition both failed to engage in reasonable efforts to conclude examination and interfered with the patent issuance process by filing the drawings.

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 a set forth in 37 CFR 1.18(f).

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

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Robinson Intellectual Property Law Office, P.C.
3975 Fair Ridge Drive
Suite 20 North
Fairfax VA 22033

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SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Yasuhiro Jinbo, et al.	:	DECISION ON PETITION
Application No. 11/705,828	:	TO WITHDRAW
Filed: February 14, 2007	:	FROM RECORD
Attorney Docket No. 0756-7948	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed August 9, 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, the request cannot be approved because all three certifications were not made on the PTO/SB/83.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO CA 92101

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of Morgan and Slattery :
Application No. 11/705,844 : Decision on Petition
Filing Date: February 13, 2007 :
Attorney Docket No. NWER 1043890 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action issued September 3, 2009, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on December 4, 2009. A Notice of Abandonment was issued on April 13, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), the petition includes a reply to the September 3, 2009 Office action and payment for $555 for a three-month extension of time. As stated in MPEP 711.03(c)(II)(A), "A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply." Therefore, the $555 has been credited back to the credit card used to pay the fee.

As to item (2), the petition includes 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. However, the petition is signed by Attorney Thomas Thibault. Attorney Thibault was not an attorney of record at the time the application became abandoned. Therefore, it appears Attorney Thibault 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 Thibault 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.

Receipt is acknowledged of the revocation and power of attorney and change of correspondence address signed by Scott Weinbrandt as chairman, CEO, and president of Helix Wind Corp. However, a review of the document discloses that it is unacceptable since it is not in compliance with 37 CFR 3.73(b).[2] Upon completion and submission of the enclosed blank Certificate under 37 CFR 3.73(b) form, the power of attorney and change of address will be acceptable. 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 current address of record until a proper request to change the address is filed.

Technology Center Art Unit 2839 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

cc: Thomas Thibault
Suite 123379
6755 Mira Mesa Blvd
San Diego, CA 92121

[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)).

[2] A copy of a PDF fillable Certificate under 37 CFR 3.73(b) form can be found at http://www.uspto.gov/web/forms/sb0096.pdf.

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THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON TX 77057

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FEB 07 2011

OFFICE OF PETITIONS

In re Application of :
GREENWOOD, et al :
Application No. 11/705,855 : DECISION ON PETITION
Filed: February 13, 2007 :
Attorney Docket No. GREENWOOD-001:CIP2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, 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 Nonprovisional Application (Notice), mailed March 29, 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 30, 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 signed declaration, drawings and the required fees; (2) the petition fee of $770; 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.

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 $820 extension of time fee submitted with the petition on December 21, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 13-2166.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6735.

This application is being referred to the Office of Data Management for further processing.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

JUN 08 2011

In re Application of
MATSUUCHI, HIDETAKA et al. :
Application No.: 11/705,906 : DECISION ON
Filing or 371(c) Date: February 13, 2007 : PETITION
Attorney Docket Number: F-9373 :

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on June 2, 2010.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance mailed February 7, 2011 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on May 23, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on May 5, 2011. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. As authorized, the issue fee of $1510.00 and $300 for publication fee was charged to Credit Card Payment Form.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/705,909	02/13/2007	Trent Alan Watkins	STAN-379 (S04-237)	5018

7590 05/19/2011

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

EXAMINER	
KOLKER, DANIEL E	
ART UNIT	**PAPER NUMBER**
1649	
MAIL DATE	**DELIVERY MODE**
05/19/2011	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

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May 18, 2011

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

Re Application of
WATKINS, TRENT ALAN, ET AL. : **DECISION ON PETITION**
Application: **11/705909** : **ACCEPTANCE OF COLOR**
Filed: **02/13/2007** : **DRAWINGS**
Attorney Docket No: **STAN-379 (S04-237)** :

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 13, 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 containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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WEIDE & MILLER, LTD.
7251 W. Lake Mead Blvd.
Suite 530
Las Vegas, NV 89128

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Vernon Lewallen	:	
Application No. 11/705,911	:	DECISION ON PETITION
Filed: February 13, 2007	:	TO WITHDRAW
Attorney Docket No. VSIADO.0001P	:	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 22, 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 R. Scott Weide on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Vernon Lewallen at the address indicated below.

There is an outstanding Office action mailed March 23, 2011 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: **Vernon Lewallen**
35 E. Glenarm Street
Pasadena, CA 91105

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/705,911	02/13/2007	Vernon Lewallen	VSIADO.0001P

CONFIRMATION NO. 5013

POWER OF ATTORNEY NOTICE

32856
WEIDE & MILLER, LTD.
7251 W. LAKE MEAD BLVD.
SUITE 530
LAS VEGAS, NV 89128

OC000000047365525

Date Mailed: 04/26/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/22/2011.

- 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

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

MAILED
JUL 21 2011
OFFICE OF PETITIONS

In re Application of :
Bill Gibson, et al. :
Application No. 11/705,921 : DECISION ON PETITION
Filed: February 14, 2007 :
Attorney Docket No. 318424.01 :

This is a decision on the petition, filed July 1, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of October 5, 2010, which set a which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, a reply was due on or before January 5, 2011.

Petitioner states that a timely reply was mailed via EFS Web along with a certificate of transmission on January 5, 2011, which included the following papers: an amendment to the outstanding Office action. The original reply is in the file.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of October 5, 2010 is hereby **withdrawn** and the **application restored to pending status**.

Telephone inquiries concerning this decision should be directed to the April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2191 for processing of the amendment previously filed January 5, 2011.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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126 EAST LINCOLN AVE
RY60-30
RAHWAY NJ 07065

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MAY 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Taveras, et al.	:	
Application No. 11/705,929	:	ON REQUEST FOR
Filed: February 14, 2007	:	RECONSIDERATION OF
Attorney Docket Number: OC01559K1B	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed March 22, 2011. Applicants believe that the PTA should be adjusted from thirty-nine (39) days to five hundred forty-five (545) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **thirty-nine (39) days**.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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SEP 29 2010
OFFICE OF PETITIONS

In re Application of :
Bhaskar Srinivasan, et al. :
Application No.: 11/705,992 : ON PETITION
Filed: February 14, 2007 :
Attorney Docket No.: MI22-4254 :

This is a decision on the petition, filed September 28, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 21, 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 2812 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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WASHINGTON, DC 20005-4051

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DEC 23 2010

PCT LEGAL ADMINISTRATION

In re Application of:	:	
ROLAND et al.	:	DECISION
US Application No.: 11/706,031	:	UNDER
Filing Date: 13 February 2007	:	
Atty Docket No.: WMK-100-A	:	37 CFR § 1.78(a)(3)
For: MONITORING AND MANAGEMENT OF DISTRIBUTED INFORMATION SYSTEMS	:	and
	:	
	:	37 CFR §1.55(c)

This is in response to applicants' "Petition Under 37 CFR 1.78(a)(3)" and "Petition Under 37 CFR 1.55(c)" filed on 19 May 2010.

Petition under 37 CFR 1.78(a)(3)

The present application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37

CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional

The petition complies with the requirements of items (1) - (3),

For item (1), a reference to the prior-filed international application has been properly indicated in the ADS.

For item (2), the surcharge fee required by 37 CFR 1.17(t) has been submitted;

For item (3), the petition contains a proper statement of unintentionally delay.

For the reason above, the petition under 37 CFR 1.78(a)(3) is GRANTED.

Petition under 37 CFR 1.55(c)

The present application, filed after November 29, 2000, did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition complies with the requirements of items (1) - (5),

For item (1), the nonprovisional application claiming the benefit of an earlier filing date was filed on or after November 29, 2000.

For item (2), the claim submitted with the petition identifies the prior foreign application for which priority is claimed.

For item (3), the surcharge fee required by 37 CFR 1.17(t) has been submitted.

For item (4), the petition contains a proper statement of unintentionally delay.

For item (5), the above nonprovisional application was filed on 13 February 2007 and the intermediate PCT application was filed within 12 months of 13 August 2004, which is the earliest filing date of the foreign application to which benefit is claimed.

For the reason above, the petition under 37 CFR 1.55(c) 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 37 CFR 1.55(c) 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed international application and foreign priority claim, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Shian Luong at (571) 272-4557. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Boris Milef
Senior PCT Legal Examiner
Office of PCT Legal Administration

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ONE MARITIME PLAZA-FIFTH
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TOLEDO OH 43604

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Rager et al.	:	
Application No. 11/706069	:	
Filing or 371(c) Date: 02/13/2007	:	ON PETITION
Attorney Docket Number:	:	
1-73182	:	

This decision is in response to the "Petition to Change Name of Inventor Under M.P.E.P. Section 605.04(c)," filed October 14, 2011. The petition is properly treated under 37 CFR § 1.182.

MPEP 201.03, Correction of Inventorship in an Application, provides

(B) Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. See, MPEP § 605.04(g). Reference to the notification will be made on the previously filed oath or declaration.

However, "[e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.[1]"

MPEP 605.04(b)

The petition is hereby **granted**.

The name of inventor Torbjorn Andersson has been changed to Torbjorn Linder and the name Torbjorn Linder has been entered and made of record in the above-identified application.

[1] The fee for a petition under 37 CFR 1.182 is $400.00, effective December 8, 2004. The petition fee has been charged to Petitioner's deposit account as authorized in the petition.

The application is being referred to Publishing Division to await Applicant's reply to the Notice of Allowance and Issue Fee Due.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosures: 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
11/706,069	02/13/2007	3636	1130	1-73182	18	1

CONFIRMATION NO. 4678

CORRECTED FILING RECEIPT

27377
MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

Date Mailed: 11/04/2011

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)

Bernd Rager, Bissingen, GERMANY;
Hansjorg Walk, Reutlingen, GERMANY;
Harald A. Fischer, Unterensingen, GERMANY;
Christer Andersson, Trollhattan, SWEDEN;
Torbjorn Linder, Trollhattan, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 27377

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/772,741 02/13/2006

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: 03/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/706,069**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

VEHICLE SEAT ASSEMBLY HAVING MOVABLE BOLSTERS

Preliminary Class

297

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.
11/706,088	02/13/2007	Rene Gantier	Q122506	5454

23373 7590 02/01/2011

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SUITE 800
WASHINGTON, DC 20037

EXAMINER
STOICA, ELLY GERALD

ART UNIT	PAPER NUMBER
1647	

NOTIFICATION DATE	DELIVERY MODE
02/01/2011	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):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of:
Gantier et al.
Serial No.: 11/706,088
Filed: February 13, 2007
Attorney Docket No: **Q122506**

: PETITION DECISION

This is in response to the petition filed on January 12, 2011 under 3 7 CFR 1.181 to correct the misclassification of submitted Information Disclosure Statements. Specifically, applicants request correction of the classification in PAIR of the Information Disclosure Statements submitted on November 9, 2007; April 9, 2008; May 12, 2009; and August 2, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on November 9, 2007; April 9, 2008; May 12, 2009; and August 2, 2010. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. A copy of the misclassified Information Disclosure Statements filed on November 9, 2007; April 9, 2008; May 12, 2009; and August 2, 2010 is attached.

The submitted Information Disclosure Statement included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" (November 9, 2007, "Transmittal Letter" of 4 pages; April 9, 2008, "Transmittal Letter" of 3 pages; May 12, 2009, "Transmittal Letter" of 5 pages; and August 2, 2010, "Transmittal Letter" of 3 pages). Consequently the information contained therein may not be considered or reviewed by the Examiner."

Applicants' argument has been accorded careful consideration and is persuasive. PAIR will be corrected to reflect the misclassification of the submitted Information Disclosure Statements of November 9, 2007; April 9, 2008; May 12, 2009; and August 2, 2010.

DECISION

The petition is **GRANTED.**

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

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BUILDING FIVE, BRADFORD GREEN
755 MAIN STREET, PO BOX 224
MONROE, CT 06468

MAILED

AUG 24 2011

OFFICE OF PETITIONS

In re Application of :
Anssi Ramo, et al. :
Application No.: 11/706,134 : ON PETITION
Filed: February 13, 2007 :
Attorney Docket No.: 915-007.243 :

This is a decision on the petition, filed August 23, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 1, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 2626 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JAN 07 2011

OFFICE OF PETITIONS

In re Application of :
Yasuhiko Kachi :
Application No. 11/706,195 : DECISION GRANTING PETITION
Filed: February 15, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0879-0848PUS1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 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 on December 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2853 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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AUG 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Geun Ho Kim, et al.	:	
Application No. 11/706,251	:	DECISION GRANTING PETITION
Filed: February 15, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0465-1749PUS1	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed August 11, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 26, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2815 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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MONTREAL QC H3A 3H3 CA CANADA

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JAN 28 2011

OFFICE OF PETITIONS

In re Application of :
Jean-Pierre AUBERTIN, et *al.* :
Application No. 11/706,254 : DECISION ON PETITION
Filed: February 15, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **712/14707.9** :

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**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 14, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 15, 2010.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2111 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted August 13, 2010 in accordance with 37 CFR 1.114.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **KEITH ORUM**
ORUM & ROTH
53 W. JACKSON BLVD, SUITE 1616
CHICAGO, IL 60604

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

In re Application of	:	
Keichi Hirose, et al.	:	
Application No. 11/706,320	:	ON PETITION
Filed: February 15, 2007	:	
Attorney Docket No.: 131991	:	

This is a decision on the petition, filed August 29, 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 file a reply in a timely manner to the non-final Office action mailed January 7, 2011. A timely extension of time pursuant to the provisions of 37 CFR 1.136(a) was not obtained. A 3-month petition for extension of time was filed on July 21, 2011. Accordingly, the application became abandoned on April 8, 2011. On August 17, 2011 a Notice of Abandonment was mailed. In response, on August 29, 2011, the present petition was filed.

Petitioner seeks revival solely for obtaining copendency with a continuation application filed July 7, 2011, in that the necessary continuity was not maintained at that time.

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.

As continuity has been established by this decision reviving the above-identified application, the application is again abandoned in favor of continuing Application No. 13/067,928, filed July 21, 2011.

It is noted that an untimely extension of time under 37 CFR 1.136 was paid on July 21, 2011. Extensions of time are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due in conjunction with a petition for revival, the $1,110 extension fee paid July 21, 2011 is being refunded to counsel's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/706,417	02/12/2007	Gang An	UROC:024USC1	4888

10769 7590 01/10/2011

Laboratory Corporation of America Holdings
c/o Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

EXAMINER	
SITTON, JEHANNE SOUAYA	
ART UNIT	PAPER NUMBER
1634	
MAIL DATE	DELIVERY MODE
01/10/2011	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.

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JAN 1 0 2011

Laboratory Corporation of America Holdings
c/o Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

In re Application of: :
An et al. :
Serial No.: 11/706,417 : PETITION DECISION
Filed: February 12, 2007 :
Attorney Docket No.: **UROC:024USC1**

This is in response to the petition under 37 CFR § 1.59(b), filed January 3, 2011, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that document submitted under 37 CFR 1.59 (b) submitted to the Patent Office on January 3, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an unexamined application. As such the information provided has not been reviewed nor have proceedings in the application been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/706,417	02/12/2007	Gang An	UROC:024USC1	4888

10769 7590 03/14/2011

Laboratory Corporation of America Holdings
c/o Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

EXAMINER	
SITTON, JEHANNE SOUAYA	
ART UNIT	PAPER NUMBER
1634	

MAIL DATE	DELIVERY MODE
03/14/2011	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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 1 4 2011

Laboratory Corporation of America Holdings
c/o Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

In re Application of:
An, et al.
Serial No.: 11/706,417
Filed: February 12, 2007
Attorney Docket No.: **UROC:024USC1**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed March 4, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the information submitted to the Patent Office on January 3, 2011 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

LABORATORY CORPORATION OF
AMERICA HOLDINGS
C/O KILPATRICK TOWNSEND &
STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of	:	
An et al.	:	
Application No. 11/706,417	:	ON APPLICATION FOR
Filed: 02/12/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
UROC:024USC1	:	

This is in response to the PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE filed on May 9, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 690 days, not 496 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The application for patent term adjustment is **GRANTED to the extent indicated**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is THREE HUNDRED SEVENTY-THREE (373) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee

is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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).

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **GRANTED**.

On February 7, 2011, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed. The patent term adjustment at the time of the mailing of the Notice of Allowance was 496 days (529 days of Office delay and 33 days of applicant delay). This application for patent term adjustment was timely filed with or prior to payment of the issue fee.[2]

Applicants disclose that an additional period of applicant delay of 123 days should be entered in connection with the response filed on November 9, 2007, three months and 123 days after the day after April 9, 2007, the date the Notice to File Missing Parts of Nonprovisional Application was mailed.

Applicants are correct. An additional period of reduction for applicant delay of 123 days is warranted and will be entered.

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 373 days (529 days of Office delay less 156 (123 + 33) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

[2] PALM records indicate that the issue fee was paid on May 9, 2011.

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. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Updated PAIR calculation

11/706,417	PROSTATE-SPECIFIC GENE FOR DIAGNOSIS, PROGNOSIS AND MANAGEMENT OF PROSTATE CANCER	06-15-2011::10:38:35

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/706,417

Filing or 371(c) Date:	02-12-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	529
A Delays:	529	PTO Manual Adjustments:	-123
B Delays:	0	Applicant Delays:	33
C Delays:	0	Total PTA Adjustments:	373

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
93	06-15-2011	Adjustment of PTA Calculation by PTO		123	0
82	02-07-2011	Mail Notice of Allowance			0
81	02-04-2011	Issue Revision Completed			0
80	02-02-2011	Allowed Case Returned to the Examiner for Clerical Processing			0
79	02-02-2011	Document Verification			0
78	02-02-2011	Notice of Allowance Data Verification Completed			0
77	01-31-2011	Examiner's Amendment Communication			0
76	01-31-2011	Allowability Notice			0
75	09-23-2010	Examiner Interview Summary Record (PTOL - 413)			0
74	12-27-2010	Information Disclosure Statement considered			0
73	12-27-2010	Information Disclosure Statement considered			0
72	12-27-2010	Information Disclosure Statement considered			0
71	12-27-2010	Information Disclosure Statement considered			0
70	01-10-2011	Mail-Petition Decision - Dismissed			0
69	01-07-2011	Petition Decision - Dismissed			0
68	01-03-2011	Petition Entered			0
67	12-27-2010	Reference capture on IDS			0
66	12-27-2010	Information Disclosure Statement (IDS) Filed			0
65	12-27-2010	Request for Continued Examination (RCE)			0
64	12-30-2010	Disposal for a RCE / CPA / R129			0
63	12-27-2010	Information Disclosure Statement (IDS) Filed			0
62	12-27-2010	Information Disclosure Statement (IDS) Filed			0
61	12-27-2010	Information Disclosure Statement (IDS) Filed			0
60	12-27-2010	Information Disclosure Statement (IDS) Filed			0
59	12-27-2010	Workflow - Request for RCE - Begin			0
58	11-17-2010	Finished Initial Data Capture			0
57	11-15-2010	Correspondence Address Change			0
56	10-14-2010	Sequence Forwarded to Pubs on Tape			0
55	10-01-2010	Export to Initial Data Capture			0
54	09-27-2010	Mail Examiner's Amendment			0
53	09-27-2010	Mail Notice of Allowance			0
52	09-24-2010	Issue Revision Completed			0
51	09-24-2010	Document Verification			0
50	09-24-2010	Notice of Allowance Data Verification Completed			0
49	09-23-2010	Examiner's Amendment Communication			0
48	09-23-2010	Allowability Notice			0
47	09-23-2010	Examiner Interview Summary Record (PTOL - 413)			0
44	08-16-2010	Information Disclosure Statement considered			0
43	08-16-2010	Information Disclosure Statement (IDS) Filed		0	41
42	08-18-2010	Date Forwarded to Examiner			0
41	08-16-2010	Response after Non-Final Action		33	36

40	08-16-2010	Request for Extension of Time - Granted			0
39	08-16-2010	Information Disclosure Statement (IDS) Filed			0
38	07-15-2010	Change in Power of Attorney (May Include Associate POA)			0
37	07-14-2010	Correspondence Address Change			0
36	04-14-2010	Mail Non-Final Rejection			0
35	04-12-2010	Non-Final Rejection			0
34	05-16-2007	Information Disclosure Statement considered			0
33	12-23-2009	Information Disclosure Statement considered			0
32	12-23-2009	Information Disclosure Statement (IDS) Filed		0	30
31	02-08-2010	Date Forwarded to Examiner			0
30	12-23-2009	Response to Election / Restriction Filed			0
29	12-23-2009	Request for Extension of Time - Granted			0
28	12-23-2009	Information Disclosure Statement (IDS) Filed			0
27	09-23-2009	Mail Restriction Requirement	529		0.5
26	09-22-2009	Restriction/Election Requirement			0
25	02-21-2008	PG-Pub Issue Notification			0
24	09-18-2007	Information Disclosure Statement considered			0
23	09-18-2007	Information Disclosure Statement (IDS) Filed			0
22	12-13-2007	IFW TSS Processing by Tech Center Complete			0
21	05-16-2007	Information Disclosure Statement (IDS) Filed			0
20	11-09-2007	Preliminary Amendment			0
19	02-12-2007	Preliminary Amendment			0
18	12-13-2007	Case Docketed to Examiner in GAU			0
17	11-29-2007	Application Dispatched from OIPE			0
16	11-16-2007	Sent to Classification Contractor			0
15	11-16-2007	Filing Receipt - Updated			0
14	11-09-2007	Payment of additional filing fee/Preexam			0
13	02-12-2007	Claim Preliminary Amendment			0
11	05-16-2007	Information Disclosure Statement (IDS) Filed			0
10	04-09-2007	Notice Mailed--Application Incomplete--Filing Date Assigned			0
7	04-04-2007	CRF Is Good Technically / Entered into Database			0
6	03-14-2007	Cleared by L&R (LARS)			0
5	03-09-2007	Referred to Level 2 (LARS) by OIPE CSR			0
4	03-09-2007	CASE CLASSIFIED BY OIPE			0
3	02-28-2007	IFW Scan & PACR Auto Security Review			0
2	02-12-2007	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	02-15-2007	Initial Exam Team nn			0
0.5	02-12-2007	Filing date			0

Close Window

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/29/11

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 11706417 Patent No.: 7993830

CofC mailroom date: 09/21/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director's/SPE response to 571-273-9421

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.

xApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

❑ **Denied** State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Dave Nguyen/

SPE, Art Unite 1634

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

MAILED

OCT 25 2011

OFFICE OF PETITIONS

LABORATORY CORPORATION OF AMERICA HOLDINGS
C/O KILPATRICK TOWNSEND & STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Patent No. 7,993,830	:	DECISION ON REQUEST
An et al.	:	FOR
Issue Date: 08/09/2011	:	RECONSIDERATION OF
Application No. 11/706,417	:	PATENT TERM ADJUSTMENT
Filed: 02/12/2007	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
UROC:024USC1	:	CERTIFICATE OF CORRECTION

This is a decision on the PETITION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705(d), filed on October 6, 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 thirteen (813) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by six hundred ninety (690) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred ninety (690) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on February 13, 2010, 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) and ending on December 26, 2010, the day before the date a request for continued examination was filed, or 317 days.

Patentee asserts that the period of reduction of 123 days for applicant delay for the filing of a response on November 9, 2007, three months and 123 days after the mailing of the notice to file missing parts on April 9, 2007, is not warranted. Specifically, patentee asserts that this period of time "should not be considered Applicant delay within the scope of the relevant portions of the statute."

Patentee's argument has been considered, but is unavailing. In this regard, 35 U.S.C. 154(b)(2)(C) states, in pertinent part, that:

> (i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.
> ...
>
> (iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

37 CFR 1.704(b) states:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or

> transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

It is undisputed that on April 9, 2007, the Office mailed the notice to file missing parts of nonprovisional application, requiring a reply. On November 9, 2007, three months and 123 days after the notice was mailed, a reply was filed. In this regard, the three-month period in 37 CFR 1.704(b) not only applies to Examiner issued Office actions but also to the Office notices and letters issued as part of the pre-examination processing of an application. Accordingly, the 123 day period of reduction for applicant delay is warranted and will not be removed.

Nonetheless, it is noted that a two (2) day period of applicant delay was assessed for the filing of the issue fee on May 9, 2011, three months and two (2) days after the mailing of a notice of allowance on February 7, 2011. As May 7, 2011, fell on a Saturday, the issue fee payment filed on May 9, 2011, was timely in accordance with 37 CFR 1.7(a). As such, the entry of a period of reduction of two (2) days for applicant delay is not warranted and will be removed.

The patent term adjustment at the time of issuance of the patent is 690 days (529 days of Office delay + 317 days of over three years delay - 156 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred ninety **(690)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,993,830 B2

DATED : **Aug. 9, 2011** **DRAFT**

INVENTOR(S) : An 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 688 days.

Delete the phrase "by 688 days" and insert – by 690 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 5/17/2011

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/706506 Patent No.: 7930612 B2

CofC mailroom date: 5/3/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER
2112

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DIEHL DERVILLA LLC
33 WOOD AVE SOUTH
SECOND FLOOR, SUITE 210
ISELIN, NJ 08830

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Michael Flather, et al. :
Application No. 11/706,536 : DECISION ON PETITION
Filed: February 15, 2007 : TO WITHDRAW
Attorney Docket No. ANS0013-02CT : 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 30, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Diehl Dervilla LLC has been revoked by the assignee of the patent application on September 29, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MOSER IP LAW GROUP/ANSELL LIMITED**
1030 BROAD STREET, SUITE 203
SHREWSBURY NJ 07702

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MAR 25 2011

OFFICE OF PETITIONS

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Application of :
Murali, et al. :
Application No. 11/706,608 :
Filed: February 14, 2007 :
Atty Docket No.**JAK-180US** :
:

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seventy-one (71) days to eighty-two (82) days. Applicants also set forth some argument as to the adjustment to the patent term on the basis that the Office will take in excess of three years to issue this patent, which is properly treated under 37 CFR 1.705(b).

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the

request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is eighty-two (82) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On October 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

---

[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.

adjustment is 71 days. On January 11, 2011, applicants timely submitted the instant application for patent term adjustment.[2]

Applicants' also assert that a periods of reduction under 37 CFR 1.704(b) and 37 CFR 1.704(c)(3) should total 300 days rather than the 311 days currently noted by the Office. Applicants' argument persuasive. The record reveals a Notice to File Missing Parts of Non-Provisional Application was mailed March 15, 2007, to which applicant did not respond, but filed a request for an extension of time within the fifth month within the maximum allowable period for reply. The application became abandoned on October 16, 2007. On December 10, 2007, applicant filed a grantable petition under 37 CFR 1.137(b) to revive the application. The decision granting the petition was not mailed until April 21, 2008. The period of reduction to the patent term adjustment under 37 CFR 1.704(b) is 178 days, beginning June 16, 2007, and ending December 10, 2007. The period of reduction to the patent term adjustment under 37 CFR 1.704(c)(3) is 178 days, beginning October 16, 2007, and ending April 10, 2008. These periods overlap between October 16, 2007, and December 10, 2007—a period of 56 days. Accordingly, the period of reduction to the patent term adjustment to be entered under 37 CFR 1.704(b) and 37 CFR 1.704(c)(3) for this period is 300 days, i.e., 179 days under 37 CFR 1.704(b) + 179 days under 37 CFR 1.704(c)(3) - 56 days of overlap. **The period of 311 days is being removed, and a period of 300 days entered.**

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is eighty-two (82) days (425 days of Office delay - 300 days of applicant delay).

The Office is in receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

---

[2] PALM records indicate that the issue fee payment was received on January 11, 2011.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

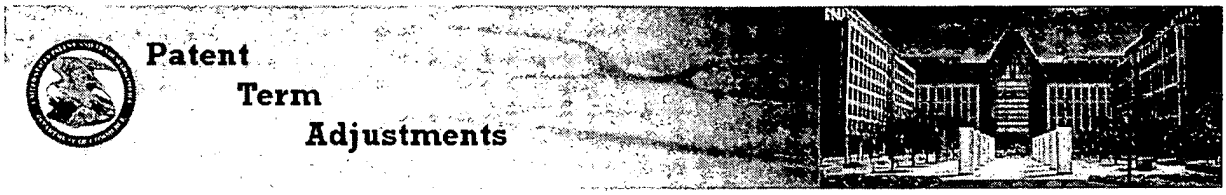
The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this specific matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11706608 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11706608

Application Filing Date	02/14/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	425
A Delays	425	PTO Manual Adjustment	11
B Delays	0	Applicant Delay (APPL)	354
C Delays	0	Total PTA (days)	82

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
72	03/23/2011		P028	Adjustment of PTA Calculation by PTO	11		0
53	10/14/2010	09/28/2010	MN/=.	Mail Notice of Allowance			46
52	10/13/2010		IREV	Issue Revision Completed			0
51	10/13/2010		DVER	Document Verification			0
50	10/13/2010		N/=.	Notice of Allowance Data Verification Completed			0
49	10/13/2010		CNTA	Allowability Notice			0
48	09/29/2010		FWDX	Date Forwarded to Examiner			0
47	09/28/2010		AP/A	Amendment/Argument after Notice of Appeal			0
46	09/28/2010	09/09/2010	N/AP	Notice of Appeal Filed		19	44
45	09/28/2010		XT/G	Request for Extension of Time - Granted			0
44	06/09/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
43	06/07/2010		CTFR	Final Rejection			0
40	03/24/2010		FWDX	Date Forwarded to Examiner			0
42	03/23/2010		IDSC	Information Disclosure Statement considered			0
41	03/23/2010	03/01/2010	M844	Information Disclosure Statement (IDS) Filed		22	39
38	03/23/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
39	03/01/2010	02/27/2010	A...	Response after Non-Final Action		2	37
37	11/27/2009	11/10/2009	MCTNF	Mail Non-Final Rejection	17		29
36	11/23/2009		CTNF	Non-Final Rejection			0
30	09/09/2009		FWDX	Date Forwarded to Examiner			0
29	07/10/2009		ELC.	Response to Election / Restriction Filed			0
28	07/10/2009		XT/G	Request for Extension of Time - Granted			0
27	05/27/2009	04/14/2008	MCTRS	Mail Restriction Requirement	408		-1
26	03/30/2009		CTRS	Restriction/Election Requirement			0
25	02/10/2009		LET.	Miscellaneous Incoming Letter			0
24	10/03/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0
23	10/02/2008		C.AD	Correspondence Address Change			0
22	08/15/2008		PG-ISSUE	PG-Pub Issue Notification			0
21	05/15/2008		DOCK	Case Docketed to Examiner in GAU			0
20	05/15/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
19	05/06/2008		OIPE	Application Dispatched from OIPE			0
18	04/24/2008		PGPC	Sent to Classification Contractor			0
17	04/24/2008		FLRCPT.U	Filing Receipt - Updated			0
16	04/24/2008		COMP	Application Is Now Complete			0
15	04/21/2008	06/15/2007	ADDFLFEE	Additional Application Filing Fees		311	4
14	04/21/2008		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
13	04/21/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	04/21/2008		MPREV	Mail-Petition to Revive Application - Granted			0
7	04/21/2008		PREV	Petition to Revive Application - Granted			0
6	12/11/2007		PET.	Petition Entered			0
9	11/20/2007		WPABN	Withdraw Pre-Exam Abandon			0
5	10/16/2007		ABNX	Abandonment -- During Preexam Processing			0
4	03/15/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	03/08/2007		L194	Cleared by OIPE CSR			0
2	03/01/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	02/16/2007		IEXX	Initial Exam Team nn			0

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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,900,923	:	DECISION ON
Toyama et al.	:	REQUEST FOR RECONSIDERATION
Application No. 11/706,707	:	OF
Filed: February 15, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 13053-4	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed April 28, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from one hundred seventy-two (172) days to two hundred twelve (212) days.

The request for reconsideration of patent term adjustment is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred six (206) days.

Patentees dispute the period of reduction of 40 days entered for the January 28, 2011 filing of a letter that Patentees submitted pursuant to their duty of good faith and candor regarding an error in patent term adjustment.

Patentees are correct. A review of the record confirms that a period of reduction of 40 days was entered for the filing of a candor letter on January 28, 2011. The only other paper filed

on January 28, 2011 was the issue fee transmittal, for which a period of reduction was not warranted.

§ 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under §1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Likewise, filing of a letter pursuant to comment 43 is covered by 37 CFR 1.704(e). Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 40 days will be properly restored to patentees patent term adjustment.

However, a review of the record reveals that an information disclosure statement (IDS) was filed on January 21, 2011. The IDS did not include a 1.704(d) statement. The Office mailed a response on January 26, 2011. Accordingly, pursuant to 37 CFR 1.704(c)(10), a period of reduction of 6 days is being entered for this delay.

In view thereof, the patent should have issued with a revised patent term adjustment of two hundred six (206) days.

As the January 28 letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office did not assess the $200.00 fee under 37 CFR 1.18(e). Likewise, no fee is required filed solely to remove the period of reduction entered due to the filing of the candor letter.

The Certificate of Correction Branch has been advised of this decision. The application is, thereby, 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 TWO HUNDRED SIX (206) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,900,923 B2

DATED : **March 8, 2011** **DRAFT**

INVENTOR(S) : Toyama et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 172 days

Delete the phrase "by 172 days" and insert – by 206 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110209

DATE : February 9, 2011

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 7,710,319

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Thomas H. Tarcza/ **Art Unit** 3662

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BARCELO, HARRISON & WALKER, LLP
2901 W. COAST HWY
SUITE 200
NEWPORT BEACH, CA 92663

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of	:	
William C. Vogel, et al.	:	
Application No. 11/706,848	:	DECISION GRANTING PETITION
Filed: February 13, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 028757-0172	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 7, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2611 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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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of :
William C. Vogel, et al. :
Application No. 11/706,848 : DECISION GRANTING PETITION
Filed: February 13, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 028757-0172 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 14, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3781 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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THORPE NORTH & WESTERN, LLP
P.O. Box 1219
SANDY UT 84091-1219

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Application of :
Chien-Min Sung :
Application No. 11/706,867 : ON PETITION
Filed: February 14, 2007 :
Attorney Docket No. 3356-24579 :

This is a decision on the petition, filed October 11, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (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 **DISMISSED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on October 11, 2011. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

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: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosure: Petition For Revival Of An Application For Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing Under 37 CFR 1.137(f); Form PTO/SB/64a, Privacy Act Statement;

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

DEC 05 2011

OFFICE OF PETITIONS

THORPE NORTH & WESTERN, LLP
P.O. BOX 1219
SANDY, UT 84091-1219

In re Application of
Chien-Min Sung
Application No. 11/706,867
Filed: February 14, 2007
Attorney Docket No. 3356-24579

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed November 10, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 15, 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.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 1, 2010 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

This application is being referred back to Technology Center Art Unit 2889 for examination in due course.

/Carl Friedman/
Carl Friedman
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
11/706,867	02/14/2007	Chien-Min Sung	3356-24579

CONFIRMATION NO. 5881

20551
THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

NONPUBLICATION RESCISSION LETTER

OC000000051106240

Date Mailed: 12/02/2011

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 03/01/2012.

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".

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

MAILED

FEB 28 2011

OFFICE OF PETITIONS

Patent No. 7,818,921 :
Issue Date: October 26, 2010 :
Application No. 11/706,874 : ON PETITION
Filed: February 15, 2007 :
Attorney Docket No. 0388-070827 :

This is a decision on the petition filed January 11, 2011, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The 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
www.uspto.gov

Decision Date : August 9,2011

In re Application of :

Choi Wa

Application No : 11706883

Filed : 15-Feb-2007

Attorney Docket No : 2166.299

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed August 9,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11706883
Filing Date	15-Feb-2007
First Named Inventor	Choi Wa
Art Unit	1785
Examiner Name	TAMRA AMAKWE
Attorney Docket Number	2166.299
Title	WATER-BASED DRAWING SURFACE AND DEVICE UTILIZING SAME

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required ◯ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on ◯ Drawing corrections and/ or other deficiencies are attached. ☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors. ◯ A joint inventor; all of whom are signing this e-petition. ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Andrew S. Langsam/
Name	Andrew S. Langsam
Registration Number	28556

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: 2269-076-03	
Application Number: 11/706,928	Filing Date (or 371(b) or (f) Date): 17 February 2007
Patent Number: 7,663,160	Issue Date: 16 February 2010
First Named Inventor: CYRIL FELLOUS ET AL.	
Title: MONOLITHIC PHOTODETECTOR	

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 /Paul F. Rusyn/	Date 10 August 2010
Name (Print/Typed) Paul F. Rusyn	Registration Number 42,118

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.

☑ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 08/13/2010

Applicant	: Cyril Fellous	: DECISION ON REQUEST FOR
Patent Number	: 7663160	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/706,928	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **143** 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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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,700,966 :
Issue Date: April 20, 2010 :
Application No. 11/706,977 : ON PETITION
Filed: February 16, 2007 :
Patentee(s): Jun Ho Jang, et. al. :

This is a decision on the petition under 37 CFR 1.183 filed on April 26, 2011, which is being treated as a request under 37 CFR 3.81(b), to add the name of an additional assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the present request complies with the requirements of 37 CFR 3.81(b), the request is **GRANTED**.

It appears a Certificate of Correction for the above patent was issued on May 31, 2011. However, this patent file is being referred to the Certificates of Correction Branch for notification of the decision granting the petition under 37 CFR 3.81(b).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Andrea Smith
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

MAILED

FEB 17 2012

OFFICE OF PETITIONS

In re Application of	:	
Satoshi Komada, et al.	:	
Application No. 11/707,058	:	DECISION GRANTING PETITION
Filed: February 16, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 245402017800	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 17, 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 June 19, 2009 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 2891 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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/707,109	02/16/2007	Chiung-Nien Chen	2846-0460PUS1	7505

7590 05/11/2011

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
SELKIN, SAUREL J	

ART UNIT	PAPER NUMBER
3768	

NOTIFICATION DATE	DELIVERY MODE
05/11/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 11, 2011

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Chiung-Nien Chen et al.	:	**DECISION ON PETITION**
Application No. 11707109	:	
Filed: 2/16/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 2846-0460PUS1	:	***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 16, 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

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/707,118	02/16/2007	Takami Arakawa	Q100104	7278

7590 05/26/2011

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
YU, JUSTINE ROMANG	
ART UNIT	**PAPER NUMBER**
3771	
NOTIFICATION DATE	**DELIVERY MODE**
05/26/2011	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination
	11/707,133	SUGIYAMA ET AL.
	Examiner	Art Unit
	FRANK W. LU	1634

ISSUE CLASSIFICATION

ORIGINAL		CROSS REFERENCE(S)							
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	288.7	435	283.1	287.1					
INTERNATIONAL CLASSIFICATION		422	82.07	82.08					
C 12 M	1/34								
C 12 M	3/00								
C 12 M	1/00								
G 01 N	21/64								
G 01 N	21/66								

(Assistant Examiner) (Date)	/Frank W Lu/ 11/8/2010 (Primary Examiner) (Date)	Total Claims Allowed: 4	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
	~~2~~		32		62		92		122		152		182
	~~3~~		33		63		93		123		153		183
	~~4~~		34		64		94		124		154		184
2	5		35		65		95		125		155		185
	~~6~~		36		66		96		126		156		186
4	7		37		67		97		127		157		187
	~~8~~		38		68		98		128		158		188
3	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
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	13		43		73		103		133		163		193
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	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

JUL 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 11/707,167	:	
In re Patent No. 7,714,337	:	DECISION ON PETITION
Filing Date: February 16, 2007	:	PURSUANT TO 37 C.F.R.
Issue Date: May 11, 2010	:	§ 3.81(B)
Attorney Docket Number: 0465-1752PUS1	:	
Title: LIGHT EMITTING DEVICE AND METHOD OF MANUFACTURING THE SAME	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.183 TO CORRECT ASSIGNEE IDENTIFICATION" filed on April 26, 2011, which is being treated as a petition pursuant to 37 C.F.R. § 3.81(b), to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED.**

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. On April 26, 2011, Petitioner submitted a "Certificate of Correction" for this purpose, which requests the addition of assignee "LG Innotek Co., Ltd., Seoul (KR)."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a

> certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on May 24, 2007, listing LG Innotek Co., Ltd., of Seoul, the Republic of Korea as an assignee.

Payment of the required $100 certificate of correction fee and the $130 processing fee is acknowledged.

It is noted that on May 31, 2011, prior to the mailing of this decision, the Certificate of Correction Branch mailed a certificate of correction, adding "LG Innotek Co., Ltd., Seoul (KR)" as an assignee.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/24/11

TO SPE OF : ART UNIT: 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/707,189 Patent No. 7,914,509

CofC mailroom date 8/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Nicholas Lucchesi/ — **SPE**

3763 — **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

VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga CA 95070

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of	:	
WALLACE et al.	:	
Application No. 11/707,233	:	DECISION ON PETITION
Filed: February 14, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 20202.04 REI	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 5, 2011, to add a claim for benefit of a prior-filed reissue application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a delayed benefit claim under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed. See In re Graff, 111 F.3d 874, 876-77, 42 USPQ2d 1471, 1473 (Fed. Cir. 1997).

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed reissue application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the Examiner of applicant's entitlement to claim benefit to the prior-filed reissue application,

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Director

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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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
11/707,233	02/14/2007	3738	1854	20202.04 REI	11	1

CONFIRMATION NO. 1627

CORRECTED FILING RECEIPT

41696
VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Date Mailed: 10/11/2011

Receipt is acknowledged of this reissue patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael P. Wallace, Pleasanton, CA;
Mehran Bashiri, San Carlos, CA;
Chad C. Roue, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number 41696

Domestic Priority data as claimed by applicant

This application is a CON of 10/900,901 07/27/2004 ABN
which is a REI of 09/668,033 09/21/2000 PAT 6,425,914
which is a CON of 08/920,526 08/29/1997 PAT 6,156,061

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: 03/17/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/707,233**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Fast-detaching electrically insulated implant

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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The Sigma Law Group LLC
50 Christy Drive
Warren NJ 07059

MAILED

DEC 13 2011

OFFICE OF PETITIONS

In re Application of :
Seriani et al. :
Application No. 11/707237 : ON PETITION
Filing or 371(c) Date: 02/16/2007 :
Attorney Docket Number: :
13011-3 :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), November 22, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed December 30, 2009. The Office communication set a one (1) month or 30 day period for reply, whichever was longer, from the mail date of the Office communication. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on January 31, 2010.

Applicant files the present petition and response to the Office communication. 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 a response to the Restriction/Election Requirement; (2) the petition fee; and (3) the required statement of unintentional delay are filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center Art Unit 3626 for processing of the response 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

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.
11/707,266	02/16/2007	Simon James Graham	15693	5711

293 7590 10/03/2011

DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria, VA 22314

EXAMINER	
REMALY, MARK DONALD	
ART UNIT	PAPER NUMBER
3777	
MAIL DATE	DELIVERY MODE
10/03/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES 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.
11/707,266	16 February 2007	GRAHAM ET AL.	15693

DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria, VA 22314

EXAMINER	
Mark Remaly	
ART UNIT	**PAPER**
3777	20110930

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

1. In view of the papers filed 09/23/2011, 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 the addition of Fred Tam.

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.

/Tse Chen/
Supervisory Patent Examiner, Art Unit 3777

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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BIB DATA SHEET

CONFIRMATION NO. 5711

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/707,266	02/16/2007	600	3777	15693

APPLICANTS

Simon James Graham, Toronto, CANADA;
Richard Mraz, Toronto, CANADA;
Nicole Baker, Toronto, CANADA;
Ian Clarkson, Cobourg, CANADA;
Fred Tam, 75 Mortimer Avenue, CANADA;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /MARK DONALD REMALY/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		CANADA	7	30	2

ADDRESS

DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria, VA 22314
UNITED STATES

TITLE

METHOD AND SYSTEM FOR COMPUTERIZED DRAWING AND WRITING DURING FUNCTIONAL MAGNETIC RESONANCE IMAGING

FILING FEE RECEIVED		
815	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

OIPE IAP14
MAY 29 2007
PATENT & TRADEMARK OFFICE

PTO/SB/01A (02-07)
Approved for use through 02/28/2007. OMB 0651-0032
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.

DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

Title of Invention	METHOD AND SYSTEM FOR COMPUTERIZED DRAWING AND WRITING DURING FUNCTIONAL MAGNETIC RESONANCE IMAGING

As the below named inventor(s), I/we declare that:

This declaration is directed to:

See Paper No. 11/707,266 for inventorship corrections

☐ The attached application, or

☑ Application No. 11/707,266 filed on February 16, 2007

☐ As amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought.

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

All statements made herein of my/own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor one: Simon James GRAHAM

Signature: Simon Graham Citizen of: Canada

Inventor two: Richard MRAZ

Signature: _____ Citizen of: Canada

☑ Additional inventors or a legal representative are being named on 2 additional form(s) attached hereto.

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. 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 minute 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-13-10

TO SPE OF : ART UNIT 2886

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/707293 Patent No.: 7782451

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 2886 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Sanford Bolasna, et al.
Application No. 11/707,302
Filed: February 15, 2007
Attorney Docket No. HSJ920070004US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 12, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 12, 2010. Accordingly, the date of abandonment of this application is July 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.

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

MAILED

SEP 17 2010

OFFICE OF PETITIONS

Gary A. Ford
18530 SE 145th Street
Renton WA 98059

In re Application of Gary A. Ford :
Application No. 11/707,364 : Decision on Petition
Filing Date: February 16, 2007 :
For: GTANK-LC & MINI-TANK-LC :

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2010, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 22, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 23, 2010. A Notice of Abandonment was mailed on April 6, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowance in the form of the submission of the issue fee and publication fee. Petitioner has submitted the required petition fee of $810. Petitioner has stated 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 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.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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.
11/707,426	02/16/2007	Edwin J. Basart	10002-02069	8599

7590 06/27/2011

Patent Law Works LLP/ShoreTel Inc.
165 South Main St
Suite 2
Salt Lake City, UT 84111

EXAMINER	
SMITH, CREIGHTON H	

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
06/27/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 23, 2011

Patent Law Works LLP/ShoreTel Inc.
165 South Main St
Suite 2
Salt Lake City UT 84111

Re Application of
BASART, EDWIN J., et al.
Application: **11/707426**
Filed: **02/16/2007**
Attorney Docket No: **10002-02069**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**
:

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) February 16, 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 containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090**

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of :
John K. EDOGA, et al :
Application No. 11/707,439 : DECISION ON PETITION
Filed: February 16, 2007 : TO WITHDRAW
Attorney Docket No. ERICH 3.0-004 DIV : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 18, 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.

A review of the file record indicates that Scott E. Charney 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 above-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

RECEIVED
NOV 0 1 2010
OFFICE OF PETITIONS

In re Application of	:	
Shanker et al.	:	
Application No. 11/707505	:	DECISION ON PETITION
Filing or 371(c) Date: 02/16/2007	:	UNDER 37 CFR 1.78(a)(3) and (6)
Attorney Docket No. 200702198-2	:	

This is a decision on the "Petition to Accept Unintentionally Delayed Claim for Benefit Under 35 U.S.C. § 120 of a Prior-Filed Copending Nonprovisional Application (37 CFR § 1.78(a)(3))," filed April 6, 2010, and supplemented October 20, 2010, for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment. The petition is properly treated under 37 CFR §§ 1.78(a)(3) and (6).

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2617 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed applications.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

CC: BROOKS, CAMERON & HUEBSCH, PLLC
1221 NICOLLET AVENUE, SUITE 500
MINNEAPOLIS, MN 55403

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/707,505	02/16/2007	2617	2500	200702198-2	42	5

CONFIRMATION NO. 7357

CORRECTED FILING RECEIPT

22879
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

OC00000044229263

Date Mailed: 10/28/2010

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)

Uma Shanker, Laguna Niguel, CA;
Bindu Rama Rao, Laguna Niguel, CA;

Power of Attorney: The patent practitioners associated with Customer Number 022879

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/774,989 02/16/2006
and is a CIP of 10/868,050 06/15/2004 PAT 7,584,466
which claims benefit of 60/478,871 06/16/2003
and claims benefit of 60/479,268 06/18/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/707,505**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Device capability determination for a mobile device

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KACVINSKY DAISAK PLLC
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Dunn, Sean	:	
Application No. 11/707,584	:	ON PETITION
Filed: February 16, 2007	:	
Attorney Docket No. P25537	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and Pre-Appeal Brief Request for Review, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2618 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COURTNEY STANIFORD & GREGORY LLP
PO Box 9807
San Jose CA 95157

MAILED

SEP 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel Shimizu et al.	:	
Application No. 11/707,602	:	DECISION ON PETITION
Filed: February 15, 2007	:	
Attorney Docket No. ATEC.P022	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 28, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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 2816 for appropriate action by the Examiner in the normal course of business on the reply received July 30, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Barbara B. Courtney
P.O. Box 9686
San Jose, CA 95157