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March 31, 2011

WesternGeco L.L.C.
10001 Richmond Avenue
Kevin McEnaney, IP Dept
HOUSTON TX 77042-4299

In re Application of	:	
Chengbin Peng	:	**DECISION ON PETITION**
Application No. 11749795	:	
Filed: 5/17/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 594-25690-US	:	***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 17, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/5/12

TO SPE OF : ART UNIT: 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/749,826 Patent No. 7,969,100

CofC mailroom date 12/28/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

Douglas W. Owens — SPE

2821 — Art Unit

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ALSTON & BIRD LLP
PIONEER HI-BRED INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of	:	
DAMUDE, et al	:	
Application No. 11/749,859	:	DECISION ON PETITION
Filed: May 17, 2007	:	TO WITHDRAW
Attorney Docket No. BB1628 USNA	:	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 25, 2011.

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

A review of the file record indicates that the power of attorney to W. Murray Spruill and the, has been revoked by the assignee of the patent application on May 12, 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

cc: E.I. DU PONT DE NEMOURS AND COMPANY
1007 MARKET STREET
WILMINGTON DE 19898

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
ROBERT C. KOWERT
P.O. BOX 398
AUSTIN, TX 78767-0398

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No: 11/749,868	:	DECISION ON PETITION
Filed: May 17, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6067-09900	:	

This is a decision on the petition, filed March 9, 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 May 19, 2008. 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 Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 8, 2011, accompanies this decision on petition.

Petitioner should note that although he, Robert C. Kowert is an attorney of record, the registration number provided on the signature page of the petition does not correspond with the USPTO records. Nevertheless, the signature of Robert C. Kowert appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Telephone inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059.

This application is being referred to Technology Center Art Unit 2628 for examination on the merits.

/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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/749,868	05/17/2007	Gavin S. P. Miller	6067-09900

CONFIRMATION NO. 9040

65132
M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
Robert C. Kowert
P.O. BOX 398
AUSTIN, TX 78767-0398

NONPUBLICATION RESCISSION LETTER

Date Mailed: 06/02/2011

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 09/08/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/atkelley-collier/

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

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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	:	
Miller et al.	:	
Application No: 11/749,870	:	DECISION ON PETITION
Filed: May 17, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6067-10100	:	

This is a decision on the petition, filed March 9, 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 May 19, 2008. 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 Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 8, 2011, accompanies this decision on petition.

Petitioner should note that although he, Robert C. Kowert is an attorney of record, the registration number provided on the signature page of the petition does not correspond with the USPTO records. Nevertheless, the signature of Robert C. Kowert appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Telephone inquiries concerning this decision should be directed to Alicia Kelley-Collier at (571) 272-6059.

This application is being referred to Technology Center Art Unit 2628 for examination on the merits.

/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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/749,870	05/17/2007	Gavin S. P. Miller	6067-10100

CONFIRMATION NO. 9042

65132
M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
Robert C. Kowert
P.O. BOX 398
AUSTIN, TX 78767-0398

NONPUBLICATION RESCISSION LETTER

Date Mailed: 06/02/2011

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 09/08/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/atkelley-collier/

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

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OFFICE OF PETITIONS

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of :
Robert A. Odabashian :
Application No. 11/749,881 : DECISION ON PETITION
Filed: May 17, 2007 : TO WITHDRAW
Attorney Docket No. 031456/328409 : 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 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. 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 Christopher H. Orders on behalf of all attorneys/agents associated with customer number 00826. All attorneys/agents associated with customer number 00826 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: Cryovac, Inc.
100 Rogers Bridge Road
Duncan, SC 29334

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/749,881	05/17/2007	Robert A. Odabashian	031456/328409

CONFIRMATION NO. 9060

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

POWER OF ATTORNEY NOTICE

OC000000044434124

Date Mailed: 11/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2010.

- 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.

/kainabinet/

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

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JAN 05 2011

OFFICE OF PETITIONS

DR. D. GRAESER LTD.
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

In re Application of
Ilya Blayvas
Application No. 11/750,029
Filed: May 17, 2007
Attorney Docket No. 2080

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed October 5, 2009. A Notice of Abandonment was mailed on March 24, 2010.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jason H. Rosenblum appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

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

Since the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and replacement drawings; (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 2622 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

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 27 2010

OFFICE OF PETITIONS

In re Application :
Rofougaran, et al. :
Application No. 11/750,095 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 17, 2007 :
Dkt. No.: 18586US02 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 3, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 521 days, not 303 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

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

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

[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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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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MAR 08 2011

OFFICE OF PETITIONS

In re Patent No. 7,825,871 :
Issued: November 2, 2010 : DECISION ON PATENT TERM
Application No. 11/750,095 :
Filed: May 17, 2007 :
Atty. Dkt. No.: 18586US02 :

This is a decision on the application for patent term adjustment filed December 30, 2010 requesting that the patent term adjustment be increased from 453 days to 454 days.

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

The above-identified application matured into U.S. Pat. No. 7,825,871 on November 2, 2010. The patent issued with a patent term adjustment of 453 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of reduction of 19 days accorded pursuant to 37 CFR 1.704(c)(10) and assert that based on petitioners interpretation of law and rules, the correct period of adjustment is 18 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of reduction pursuant to 37 CFR 1.704(c)(10) was properly calculated at 19 days.

35 USC 154(b)(1)(C) states:

(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.

(ii) 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.

(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.

The provisions of 35 U.S.C. 154(b)(2)(C) are implemented at 37 CFR 1.704(c)(10) and specifies certain circumstances as constituting a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

37 CFR 1.704(c)(10) states:

> 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;

Applicants filed an amendment under 37 CFR 1.312 on September 3, 2010. The Office mailed a reply to the amendment on September 21, 2010.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of reduction under § 1.704(c)(10) began on September 3, 2010, the date that the Rule 312 amendment was filed, and ended September 21, 2010, the date that the Office mailed a response to the Rule 312 amendment, said period totalling 19 days.

Thus, the period of reduction pursuant to 37 CFR 1.704(c)(10) of 19 days does not begin on the day after the post allowance submission was filed, as argued, but instead commences on and includes the date that the post allowance submission is filed.

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fallon & Fallon LLC
63 West Main Street
Freehold NJ 07728

MAILED
SEP 22 2011
OFFICE OF PETITIONS

In re Application of :
Brian J. Wechter :
Application No. 11/750,104 : DECISION ON PETITION
Filed: May 17, 2007 :
Attorney Docket No. **23288.0001U1** :

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 23, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 24, 2009.

The petition is **GRANTED**.

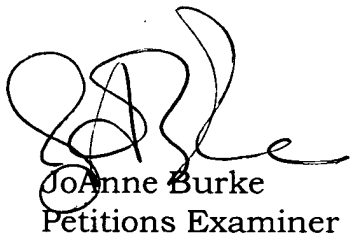
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

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

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

This application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the reply received.



JoAnne Burke
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/750,104	05/17/2007	Brian J. Wechter	23288.0001U1

CONFIRMATION NO. 9496

11217
Fallon & Fallon LLC
63 West Main Street
Freehold, NJ 07728

POA ACCEPTANCE LETTER

OC00000049930712

Date Mailed: 09/20/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/15/2011.

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

/jlburke/

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

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 2 0 2010

OFFICE OF PETITIONS

In re Application :
Ahmadreza Rofougaran et al. :
Application No. 11/750,111 : DECISION ON APPLICATION
Filed: May 17, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 18587US02 :

This is a decision on the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed on June 29, 2010.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

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

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by three (3) days in that the Office action response was filed on the first business day after a deadline falling on a weekend or holiday and thus was not late.

Applicant's arguments have been considered, but not found to be persuasive.

Rule 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

---

[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.

A non-Final Office Action was mailed November 13, 2009 and the response was therefore due on February 13, 2010. February 13, 2010 was a weekend, February 15, 2010 was a holiday, and thus, the response was received on February 16, 2010 which is three months and three days later. As such, a reduction of three days was assessed. Patentees have argued that this is improper, as February 13, 2010 fell on a weekend and the next business day after the February 15, 2010 holiday was February 16, 2010. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)[2] does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)[3] does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, the patent term adjustment was properly stated at the time the Notice of Allowance was mailed.

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 acknowledges the submission of the required fee of $200.00 set forth in 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

[2] "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."

[3] "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."

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FEB 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,821,472
Issued: October 26, 2010
Application No. 11/750,111
Filed: May 17, 2007
Attorney Docket No. 18587US02

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d))" filed on December 23, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 404 days to 408 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.

The patent term adjustment calculation has been reviewed. Patentees have miscalculated the delay pursuant to 37 CFR § 1.704(c)(10). The first day of the calculation is July 1, 2010, the date the 37 CFR § 1.312 amendment was filed, and ends on August 5, 2010, the date the response was filed, for a total of 36 days.

As stated in M.P.E. P. 2732

37 CFR 1.703 specifies the period of adjustment if a patent is entitled to patent term adjustment under 35 U.S.C. 154(b)(1) and 37 CFR 1.702. When a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length. 35 U.S.C. 154(b)(1)(A) and (B) provide for an adjustment of one day for each day after the end of the period set forth in 35 U.S.C. 154(b)(1)(A)(i), (ii), (iii), (iv), and (B) until the prescribed action is taken, whereas 35 U.S.C. 154(b)(1)(C) provides for an adjustment

of one day for each day of the pendency of the proceeding, order, or review prescribed in 35 U.S.C. 154(b)(1)(C)(i) through (iii). Therefore, the end of the period set forth in 37 CFR 1.703(a) and 1.703(b) (which correspond to 35 U.S.C. 154(b)(1)(A) and (B)) is "day zero" (not "day one") as to the period of adjustment, whereas the first day of the proceeding, order, or review set forth in 37 CFR 1.703(c), 1.703(d), and 1.703(e) (which correspond to 35 U.S.C. 154(b)(1)(C)(i) through (iii)) is "day one" of the period of adjustment.

As such, the total patent term adjustment is four hundred four days.

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 at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/9/2012

TO SPE OF : ART UNIT 1715 Meeks Timothy (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/750134 Patent No.: 8034407

CofC mailroom date: _____

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: _____

_____

_____

_____

_____

_____ 1715
SPE Art Unit

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ALBANY NY 12207

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Application of :
Dillenberger et al :
Application No. 11/750,141 : DECISION GRANTING PETITION
Filed: May 17, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. YOR920070259US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 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 December 22, 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 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and 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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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
379 Lytton Avenue
Palo Alto CA 94301

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DEC 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Ying Shen et al.	:	
Application No. 11/750,231	:	DECISION ON PETITION
Filed: May 17, 2007	:	
Attorney Docket No. 18LZ-137867	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 9, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed August 9, 2011. Accordingly, the date of abandonment of this application is November 10, 2011. A Notice of Abandonment was mailed on November 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740 and the publication fee of $300, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/11/12

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 11750239 Patent No.: 7770789

CofC mailroom date: 01/05/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted] response to 571-273-3421

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

YES.

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X **Approved** — **All** changes apply.

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

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

Comments: All changes are approved.

/Daniel Hess/ 2876

for SPE **Art Unit**

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

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Application of :
SPROLES :
Application No. 11/750,538 : DECISION ON PETITION
Filed: May 18, 2007 : TO WITHDRAW
Attorney Docket No. 38044-501001US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 30, 2010.

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

A review of the file record indicates that the power of attorney to Cynthia Kozakiewicz and all the attorneys of record associated with Customer No. 30623, has been revoked by the assignee of the patent application on April 7, 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

cc: IVERSON GENETIC DIAGNOSTICS, INC.,
C/O DEAN IVERSON SPROLES
19805 NORTH CREEK PARKWAY, SUITE 200
BOTHELL, WA 98011

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SALT LAKE CITY UT 84111

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JUN 01 2011

OFFICE OF PETITIONS

In re Application of	:	
SPROLES	:	
Application No. 11/750,538	:	DECISION ON PETITION
Filed: May 18, 2007	:	TO WITHDRAW
Attorney Docket No. 78372/1060	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 3, 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 Samuel E. Webb on behalf of the attorneys of record associated with Customer No. 32642.

The attorneys of record associated with Customer No. 32642 have been withdrawn.

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

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

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

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

cc: IVERSON GENETIC DIAGNOSTICS, INC.,
C/O DEAN SPROLES
19805 NORTH CREEK PARKWAY, SUITE 200
BOTHELL WA 98011

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/750,538	05/18/2007	Dean Iverson Sproles	78372/1060

CONFIRMATION NO. 1261

32642
STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

POWER OF ATTORNEY NOTICE

OC000000047975812

Date Mailed: 06/01/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/03/2011.

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

/dcgoodwyn/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/09/12

TO SPE OF : ART UNIT: 3751 Attn: HUSON GREGORY L (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/750546 Patent No.: 8083427

CofC mailroom date: 03/01/2012

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:

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Randolph Square – 9D10-A
Palm Location 7580

Note: Please check Claim 1
Should this claim be corrected as requested 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: All of the the proposed changes are acceptable.

/David Walczak/

SPE Art Unit

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February 15, 2011

Kevin Evel-Kabler
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

Patent No.	: 7,812,150 B2
Ser. No.	: 11/750,553
Inventor(s)	: Rainer Constien, et al.
Issued	: October 12, 2010
Docket No.	: 26421-14909 US
Title	: **RNAI MODULATION OF AHA AND THERAPEUTIC USES THEREOF**

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ALNYLAM/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED
MAR 07 2012
OFFICE OF PETITIONS

In Patent No. 7,812,150 :
Issued: October 12, 2010 :
Application No. 11/750,553 : ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. 26421-14909 US :

This is a decision on the petition, filed March 11, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner requests that the Office issue a certificate of correction adding The Scripps Research Institute as an assignee.

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

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

The request under 37 CFR 3.81(b) was not accompanied by the $130.00 processing fee and a certificate of correction that lists the city and state of the assignee as required by 3.81(b). *See*

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

also MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to The Scripps Research Institute, La Jolla, CA has been recorded. Therefore, upon submission of the required certificate of correction and processing fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that The Scripps Research Institute, La Jolla, CA was an assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of the processing fee of $130.00 and a request for a certificate of correction which sets forth The Scripps Research Institute, La Jolla, CA, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision must accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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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OCT 12 2010

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

In re Application of :
Claudius FEGER, et al :
Application No. 11/750,559 : ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. YOR92006852US1 :
(20140-00

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 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 October 19, 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 January 20, 2010.

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

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

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner.

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

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

JAN 20 2011

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Robert P. MORRIS, et al.
Appl. No.: 11/750,611
Filed: May 18, 2007
For: **MULTIPURPOSE NAVIGATION KEYS FOR AN ELECTRONIC DEVICE**

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on December 10, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on December 10, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

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

Any inquiry concerning this decision should be directed to Ken Wieder whose telephone number is (571) 272-2986.

/Kenneth A. Wieder/
Kenneth A. Wieder,
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
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MAIL

MAY 06 2011

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Robert P. MORRIS, et al.
Appl. No.: 11/750,611
Filed: May 18, 2007
For: **MULTIPURPOSE NAVIGATION KEYS FOR AN ELECTRONIC DEVICE**

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 15, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 15, 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 Ken Wieder whose telephone number is (571) 272-2986.

/Kenneth A. Wieder/
Kenneth A. Wieder,
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Application of :
CREIGHTON, et al :
Application No. 11/750,629 : ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. PRD2675USNP :

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

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publications fees on or before October 25, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed July 25, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 26, 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) and (2).

With respect to item (1): A review of the record shows that the petition in the above-identified application was not accompanied by the current issue fee payment of $1740 and the publication fee payment of $300. The instant petition cannot be granted because the required reply, as set out under the provisions of 37 CFR 1.137(b) and required by the Notice mailed July 25, 2011, has not been provided. No consideration on the merits can be given until the required fee deficiency is remitted.

With respect to item (2): The petition fee as required by 37 CFR 1.17(m), has not been provided. As of September 26, 2011, the current petition fee is $1860. In this regard, the petition dated October 27, 2011, cannot be granted.

The Office acknowledges the Request for Continued Examination (RCE) filed with the petition on October 27, 2011, however, the current RCE fee of $930 has not been submitted.

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.

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 Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of
TARBOTTON, Lee C. L. et al.
Application No. 11/750,707
Filed: May 18, 2007
Attorney Docket No. **NAI1P450A/02.048.02**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 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 Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 08, 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: **PATENT CAPITAL GROUP**
6119 MCCOMMAS BLVD
DALLAS TX 75214

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OCT 25 2010

OFFICE OF PETITIONS

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

In re Application of
Mark A. Gerber et al.
Application No. 11/750,757
Filed: May 18, 2007
Attorney Docket No: T1-63590

ON PETITION

This is a decision on the petition filed September 24, 2010 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 February 24, 2009. 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 May 27, 2009. Accordingly, a Notice of Abandonment was mailed October 5, 2009.

This matter is being referred to Technology Center 2893 for appropriate action on the amendment filed September 24, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NUMBER 007131
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO IL 60606

MAILED

SEP 2 8 2010

OFFICE OF PETITIONS

In re Application of :
Debashis Ghosh et al. :
Application No. 11/750,808 : DECISION ON PETITION
Filed: May 18, 2007 :
Attorney Docket No. 007131.00031 :

This is a decision on the petition under 37 CFR 1.59(b), filed September 23, 2010, to expunge information from the above identified application and petition to expedite under 37 CFR 1.182.

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

The petition under 37 CFR 1.59(b) is **granted**.

Petitioner requests that the three declarations, filed June 29, 2009, 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.

Redacted versions of the declarations are submitted with the instant petition. The redacted information in question has been determined by the undersigned to not be material to the examination of the instant application.

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

The expunged material has been removed from the official file.

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

Carl Friedman
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	11750815
Filing Date	18-May-2007
First Named Inventor	Hyosig Kang
Art Unit	2857
Examiner Name	MICHAEL NGHIEM
Attorney Docket Number	051892-0248
Title	METHOD AND APPARATUS FOR CONTROLLING A HAPTIC DEVICE

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 22428

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

10.40(b)(4)

Certifications

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

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

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

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

Name	MAKO SURGICAL CORP.
Address	2555 DAVIE ROAD
City	FT. LAUDERDALE
State	FL
Postal Code	33317
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Rawlins, Andrew/
Name	Rawlins, Andrew
Registration Number	34702

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 30, 2011

In re Application of :

Hyosig Kang

Application No : 11750815

Filed : 18-May-2007

Attorney Docket No : 051892-0248

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 30, 2011

The request is **APPROVED.**

The request was signed by Rawlins, Andrew (registration no. 34702) on behalf of all attorneys/agents associated with Customer Number 22428 . All attorneys/agents associated with Cusotmer Number 22428 have been withdrawn.

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

Name MAKO SURGICAL CORP.
Name2
Address 1 2555 DAVIE ROAD
Address 2
City FT. LAUDERDALE
State FL
Postal Code 33317
Country US

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

FEB 02 2011

OFFICE OF PETITIONS

In re Application of :
Fontaine Jean-Jacques et al :
Application No. 11/750,817 : DECISION GRANTING PETITION
Filed: May 18, 2007 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 4590-673 :

This is a decision on the petition, filed February 1, 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 Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petition 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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ELMAN TECHNOLOGY LAW, P.C.
P. O. BOX 209
SWARTHMORE PA 19081

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Dustin M. SNELL et al.	:	**CORRECTED**
Application No. 11/750,859	:	DECISION ON PETITION
Filed: May 18, 2007	:	
Attorney Docket No. 1321.701 (NET).005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2010, to revive the above-identified application.

The decision mailed July 15, 2010 is hereby vacated.

The petition is **GRANTED.**

The record shows that a Notice of Appeal was filed on December 21, 2009, with a three (3) month extension of time. However in order for a Notice of Appeal to be a proper response to the non-final Office action mailed June 19, 2009, the claims must have been twice rejected. Since the claims have not been twice rejected, the filing of a Notice of Appeal is considered a non-responsive reply. Since no time remains in the time period set in the mailing of the June 19, 2009 Office action, the application was statutorily abandoned on December 20, 2009. A three (3) month extension of time was received prior to the shortened statutory time limit.

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 $810.00; and (3) the required statement of unintentional delay have been received. Therefore the petition in granted.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2455 for further action as the nature of the reply filed June 10, 2010 may require.

Thurman K. Page
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.
11/750,863	05/18/2007	Barbara Pui Chan	UHK 00213/245	1876

23579 7590 08/24/2011

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

EXAMINER	
FORD, ALLISON M	

ART UNIT	PAPER NUMBER
1653	

MAIL DATE	DELIVERY MODE
08/24/2011	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.

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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AUG 2 4 2011

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

In re Application of	:	
Chan et al.	:	
Serial No.: 11/750,863	:	Decision on Petition
Filed: May 18, 2007	:	
Attorney Docket No.: **UHK 00213/245**	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on May 12, 2011 to enter the claim amendments in the amendment after final of April 12, 2011.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on January 12, 2011.

On April 19, 2011, applicants submitted an amendment after final including claim amendments and arguments traversing the rejections to the claims.

On April 19, 2011, the examiner mailed to applicants an advisory action indicating that the after final amendment would not be entered because the amendments are not deemed to place the application in better form for appeal by reducing or simplifying the issues for appeal.

On May 10, 2011, the examiner mailed to applicants a second advisory action indicating that the after final amendment would not be entered because the amendments are not deemed to place the application in better form for appeal by reducing or simplifying the issues for appeal and that new issues would be raised requiring further consideration and/or search.

On May 12, 2011, applicants submitted a Notice of Appeal.

On May 12, 2011, applicants submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that they "amended claim 11 to recite the phrase *"a* growth-stimulating *factor present in* a material selected from the group consisting of..." This amendment makes it clear that the growth-stimulating factor can be found in one of the sources listed and therefore does not include derivatives, analogs, and metabolites not also present in the specified material. This amendment overcomes the rejections under 35 U.S.C. § 112 and therefore places the claims in better for consideration on appeal. The Advisory Action mailed May 10, 2011, did not provide any basis why this amendment should not be entered." Applicants also argue they narrowed claim 1 to recite "consisting of" language which " narrows the scope of the claimed microspheres to those containing only ECM and cells, which are formed as a result of a phase change of ECM that occurs after mixing cells and the ECM together. The claims as amended therefore exclude the microspheres described in Masuda, et al., which have alginate-PLL within the microsphere. The claims as amended also exclude the microspheres described in Batorsky, et al., which necessarily contain agarose as a support material and other foreign materials present in the oil phase used in traditional droplet generation methods. This amendment therefore overcomes the rejections under 35 U.S.C. § 102."

Applicants arguments have 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. 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 April 19, 2011.

Applicants' also assert that "...the Examiner's position does not make any sense. A proper search of the claims submitted before the Final Office Action should have identified any prior art relating to the proposed claims. Applicants' amendment adding closed transitional language merely clarified the narrower scope of the claim. This amendment restricted the scope of the claims to an embodiment that should have been searched before the Final Office Action, and one which was understood by the examiner. Therefore, the amendment does not raise new issues. If further consideration is required, it is because the original search was incomplete and not as a result of Applicants' proposed amendment." This assertion is unpersuasive. The Examiner did a thorough search of the claims "as originally filed" and properly rejected the claims with 102 rejections that were and still are appropriate when considering the term "comprising" at the time of final rejection. An examiner simply cannot anticipate every future amendment and search the literature based on those potential changes to the claims.

DECISION

The petition is **DENIED.**

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

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

Jacqueline Stone
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DON J. PELTO
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
1300 I STREET, NW
11TH FLOOR EAST
WASHINGTON, DC 20005

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of :
Thomas M. Hallam, et al. :
Application No. 11/750,900 :
Filed: May 18, 2007 :
Attorney Docket No.: 17VV-137277 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed July 6, 2009, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. 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 1616 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 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
11/750,900	05/18/2007	1616	1115	17VV-137277	33	6

CONFIRMATION NO. 1958

CORRECTED FILING RECEIPT

68850
DON J. PELTO
Sheppard, Mullin, Richter & Hampton LLP
1300 I STREET, NW
11TH FLOOR EAST
WASHINGTON, DC 20005

Date Mailed: 07/29/2010

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

Applicant(s)

Thomas M. Hallam, Astoria, NY;
Tim Tully, Cold Spring Harbor, NY;
Rusiko Bourtchouladze, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 68850

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/801,949 05/19/2006
and is a CIP of 09/927,914 08/10/2001
which claims benefit of 60/224,227 08/10/2000

Foreign Applications

If Required, Foreign Filing License Granted: 06/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/750,900**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

PHOSPHODIESTERASE 4 INHIBITORS FOR COGNITIVE AND MOTOR REHABILITATION

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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1300 I STREET,NW
11TH FLOOR EAST
WASHINGTON DC 20005

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Thomas M. Hallam et al	:	
Application No. 11/750,900	:	DECISION ON PETITION
Filed: May 18, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 17VV-137277	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 30, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1617 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
11/750,900	05/18/2007	1617	1115	17VV-137277	33	6

CONFIRMATION NO. 1958

CORRECTED FILING RECEIPT

68850
DON J. PELTO
Sheppard, Mullin, Richter & Hampton LLP
1300 I STREET, NW
11TH FLOOR EAST
WASHINGTON, DC 20005

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)

Thomas M. Hallam, Astoria, NY;
Tim Tully, Cold Spring Harbor, NY;
Rusiko Bourtchouladze, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 68850

Domestic Priority data as claimed by applicant

This application is a CIP of 10/410,508 04/08/2003 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: 06/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/750,900**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

PHOSPHODIESTERASE 4 INHIBITORS FOR COGNITIVE AND MOTOR REHABILITATION

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/11

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 11750927 Patent No.: 7727457

CofC mailroom date: 2/15/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

CJ

Christina Johnson
SPE, AU 1742

1742

SPE Art Unit

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
NOV 08 2011
OFFICE OF PETITIONS

In re Patent No. 8,005,842	:
Pasca et al.	: DECISION ON REQUEST FOR
Issue Date: August 23, 2011	: RECONSIDERATION OF
Application No. 11/750,935	: PATENT TERM ADJUSTMENT
Filed: May 18, 2007	:
Atty Docket No. 16113-0476001	:
	:

This is a decision on the petition filed on October 24, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred fifty-one (251) days.

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

BACKGROUND

On August 23, 2011, the application matured into U.S. Patent No. 8,005,842, with a revised patent term adjustment of 117 days. On Monday, October 24, 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 251 days. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 35 U.S.C.

154(b)(1)(B) and 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on April 12, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 134 day period from April 12, 2011 (the mailing date of the Notice of Allowance) until August 23, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 134 days and be increased from 0 to 134 days. Patentee concludes that the correct patent term adjustment is 251 days (the sum of 328 days of "A delay" and 134 days of "B delay" minus 0 days of overlap between "A delay" and "B delay" and minus 211 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) and 37 CFR 1.702(b) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on May 18, 2007 and the patent not having issued as of the day after the three year date, May 19, 2010, but a request for continued examination under 132(b) having been filed prior to the three year date on May 14, 2010. In other words, the period from the date of filing of the request for continued examination to the date of issuance of the patent was not included in calculating 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). So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C.

371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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

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, 139, 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) . 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. Webster's Collegiate Dictionary, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

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

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

Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor. As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

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

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

request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

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

In this instance, a request for continued examination was filed on May 14, 2010, and the patent issued by virtue of that request on August 23, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 14, 2010 and ending on August 23, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 117 days indicated on the patent is correct.

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

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

Nancy Johnson
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	11750986
Filing Date	18-May-2007
First Named Inventor	Richard Ewers
Art Unit	3779
Examiner Name	MATTHEW KASZTEJNA
Attorney Docket Number	USGINZ06001
Title	ENDOSCOPIC SYSTEM WITH DISPOSABLE SHEATH

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 40518

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	USGI Medical, Inc.
Address	1140 Calle Cordillera
City	San Clemente
State	CA
Postal Code	92673
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : October 7,2011

In re Application of :

Richard Ewers

Application No : 11750986

Filed : 18-May-2007

Attorney Docket No : USGINZ06001

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7,2011

The request is **APPROVED.**

The request was signed by Johney U. Han (registration no. 45565) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Cusotmer Number 40518 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 USGI Medical, Inc.
Name2
Address 1 1140 Calle Cordillera
Address 2
City San Clemente
State CA
Postal Code 92673
Country US

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

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

Office of Petitions

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JAN 03 2011

OFFICE OF PETITIONS

In re Application of
Ming-Chun Hsyu et al.
Application No. 11/750,995
Filed: May 18, 2007
Attorney Docket Number: 07141UPL

ON PETITION

This is a decision on the petition, filed December 12, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

While the issue fee was paid September 7, 2010, this application became abandoned November 18, 2010 for failure to file corrected drawings in response to the Notice of Allowability mailed on August 17, 2010. Accordingly, the Notice of Abandonment was mailed on December 7, 2010.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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JAN 25 2012

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

SNYDER, CLARK, LESCH & CHUNG, LLP
950 Herndon Parkway, Suite 365
HERNDON, VA 20170

In Re Application:

Appl No. 11/751,131
Filed: May 21, 2007
Attorney Docket No.: PS07 0368US1
For: REMOTE VIEWFINDING

WITHDRAW FROM ISSUE
FEE NOT PAID

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313(a).

The above-identified application is withdrawn from issue before payment of the issue fee reopen prosecution.

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 specified Deposit Account.

The application is being forwarded to the examiner for action.

Nancy Le
Director, Technology Center 2400
Network, Multiplexing, Cable
and Security

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10th Floor
One Landmark Square
Stamford CT 06901-2682

MAILED

DEC 08 2011

PCT LEGAL ADMINISTRATION

In re Application of: TURNER, Derek
U.S. Application No.: 11/751,134
Filing Date: May 21, 2007
Attorney's Docket No.: 0004062USU/4179
For: DENTAL HANDPIECE

DECISION ON PETITION UNDER 37 CFR 1.178(a)(3) AND 1.55(c)

This decision is issued in response to the "Petition To Accept An Unintentionally Delayed Claim To Priority (37 C.F.R. §1.78(a)(3) and 37 C.F.R. §1.55(c))" filed on November 09, 2011. Deposit Account No. 01-0467 will be charged the $1,410 petition fee.

BACKGROUND

On May 21, 2007, applicants initiated the present application using the EFS-Web electronic filing system. Applicants' submission included a transmittal letter identifying the application as the national stage under 35 U.S.C. 371 of international application PCT/CA2005/001782. However, as evidenced by the "Electronic Acknowledgment Receipt," during the electronic filing process applicant identified the present application as a "Utility" application filed under 35 U.S.C. 111(a), not a national stage application filed under 35 U.S.C. 371. Accordingly, the application was processed as a filing under 35 U.S.C. 111(a).

On 09 November 2011, applicants filed the "Petition To Accept An Unintentionally Delayed Claim To Priority (37 C.F.R. §1.78(a)(3) and 37 C.F.R. §1.55(c))" considered herein. The petition seeks to add to the present application an acceptable domestic priority claim directed to PCT/CA2005/001782 and an acceptable foreign priority claim directed to Canadian application number 2488454.

DISCUSSION

1. The Application Was Properly Treated As A Filing Under 35 U.S.C. 111(a)

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise the submission will be considered as being made under 35 U.S.C. 111(a).

Section 1893.03(a) of the MPEP states:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

Here, as noted above, during the electronic filing process applicant selected the application identifier "Utility (Utility under 35 U.S.C. 111(a)" rather than the separate application identifier for "U.S. National Stage Under 35 U.S.C. 371." This is evident from the Electronic Acknowledgement Receipt generated at the time of filing, which identifies the application as a "Utility" application.

Applicant's identification of the application during the electronic filing process as a utility application filed under 35 U.S.C. 111(a) represents a conflicting instruction that is not consistent with the intent to file a U.S. national stage application under 35 U.S.C. 371. Accordingly, pursuant to the policy set forth in MPEP section 1893.03(a), the present application was properly treated by the USPTO as a filing under 35 U.S.C. 111(a).

2. **Petition Under 37 CFR 1.78(a)(3)**

The first sentence of the description does not contain a domestic priority claim under 35 U.S.C. 120 and 365(c) directed to international application PCT/CA2005/001782, nor was an amendment or application data sheet (ADS) containing such a benefit claim timely filed. The present application therefore does not currently include a domestic priority claim directed to the international application.[1]

A petition under 37 CFR 1.78(a)(3) is appropriate where, as here, in an application filed after 29 November 2000, the applicant seeks to add, after the expiration of the time period set forth in 37 CFR 1.78(a)(2)(ii), a claim of domestic benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States.

A grantable petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference to the prior-filed application required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17; 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.

[1] The filing receipt mailed herein listed a foreign priority claim directed to the international application, and the "Claim To Foreign Priority" filed with the present petition includes the international application. However, a claim of foreign priority must be contained in an ADS or the declaration. Moreover, any foreign priority claim directed to the international application, even if properly made, would be defective under 35 U.S.C. 119 because the international application was filed more than 12 months prior to the present application. The present petition has therefore been interpreted as a petition to add a claim of domestic priority with respect to the international application.

The present petition fails to satisfy item (1) above. 37 CFR 1.78(a)(2)(iii) requires the necessary reference to the prior-filed application to be present in the first sentence of the description or in an ADS. Applicants here have not filed an amendment to the first sentence of the specification containing a proper benefit claim to the international application, nor have they have filed an ADS including such a claim. Item (1) of a grantable petition under 37 CFR 1.78(a)(3) is therefore not satisfied.

In view of the above, applicant's petition does not satisfy all the requirements for a grantable petition under 37 CFR 1.78(a)(3) to add to the present application a benefit claim directed to PCT/CA2005/001782. The petition is therefore appropriately dismissed. Any renewed petition under 37 CFR 1.78(a)(3) must be accompanied by an amendment to the first sentence of the specification containing a proper reference directed to the international application (or a supplemental ADS containing such a reference).

Applicant should note that, as set forth in 37 CFR 1.78(a)(2)(i), an acceptable benefit claim must identify the international application by "international application number and international filing date and indicat[e] the relationship of the applications." Pursuant to MPEP section 201.11(III)(A), the relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed application. An example of a proper benefit claim would therefore be: "This application is a continuation of international application PCT/CA2005/001782, filed on November 24, 2005." A benefit claim that merely states: "This application claims the benefit of" the international application does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated.

3. **Petition Under 37 CFR 1.55(c)**

The present application does not include an acceptable claim of foreign priority directed to Canadian application number 2488454. [2] Accordingly, a grantable petition under 37 CFR 1.55(c) is required to add an unintentionally delayed such a claim to the present application.

A grantable petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for foreign priority requires the following:

(1) the claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
(2) the surcharge as set forth in 37 CFR 1.17(t);
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

[2] The filing receipt mailed herein listed a foreign priority claim directed to the Canadian application. However, the application does not include an ADS or a declaration containing a proper claim of foreign priority directed to the Canadian application (the application file contains a copy of the declaration filed in PCT/CA2005/001782, but such declaration is not directed to the present application and does not include a proper claim of foreign priority directed to Canadian application number 2488454).

The present petition fails to comply with item (1) above. Pursuant to MPEP section 201.13, a claim for foreign priority must be contained in either an oath or declaration (37 CFR 1.63(c)(2)) or an ADS (37 CFR 1.76). Applicants here have not filed an ADS or an executed declaration setting forth the foreign priority claim. Accordingly, petitioner has not submitted the foreign priority claim in an acceptable form.

Based on the above, applicants have failed to satisfy all the requirements for a grantable petition under 37 CFR 1.55(c) for acceptance of an unintentionally delayed foreign benefit claim. The petition is therefore appropriately dismissed. Any renewed petition under 37 CFR 1.55(c) must be accompanied by an ADS or an executed declaration containing a proper claim of foreign priority directed to Canadian application number 2488454.

CONCLUSION

For the reasons set forth above, the petitions under 37 CFR 1.78(a)(3) and 1.55(c) are **DISMISSED** without prejudice.

The present application is properly treated as an application filed under 35 U.S.C. 111(a) and, on the present record, the application does not contain claims of priority directed to any prior-filed applications, including PCT/CA2005/001782 and Canadian application number 2488454.

Any renewed petition under 37 CFR 1.78(a)(3) and 1.55(c) seeking to add the desired priority claims to the present application must include the additional materials required to satisfy the outstanding requirements for a grantable petition, as discussed above and in the MPEP. No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/RichardMRoss/

Richard M. Ross
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SEP 23 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,981,102
Issued: July 19, 2011
Application No. 11/751,262
Filing or 371(c) Date: May 21, 2007
Dkt. No.: 18879-037001

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT
:
:
:

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on September 19, 2011 requesting a decrease in patent term adjustment from 426 days to 501 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,981,102 on July 19, 2011. The patent issued with a patent term adjustment of 426 days. The instant application for patent term adjustment was timely filed September 19, 2011.

Patentees dispute the 349 days accorded pursuant to 37 CFR 1.703(b) and assert that the correct period of adjustment in this regard is 424 days.

Patentees' arguments have been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of adjustment under 37 CFR 1.703(b). 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 75 days, beginning on April 19, 2010, the date of filing of the notice of appeal and ending on July 2, 2010, the subsequent date of the non-final Office action. Thus, the period of adjustment for the Office's failure to issue the patent within three years of the application filing date is 349 days (424 days – 75 days).

It is noted that the Office issued a Notice of proposed rulemaking entitled Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 FR 18990 (April 6, 2011). To the extent that the final rule on Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or**

thirty (30) days, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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PCT LEGAL ADMINISTRATION

Leviton Manufacturing Company Incorporated
(CDFS)
c/o Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Rd. Ste. 420
Melville NY 11747

In re Application of
Leslie Lindenstraus, et al.
Application No. 11/751,347
Filed: May 21, 2007
Attorney Docket No. 1640-7 CIP II DIV

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 04 August 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application and non-provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED** without prejudice.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

With regard to item (1) above, applicant submitted an amendment that states, in part:

"The present application is a divisional application of U.S. Application Serial Number 10/852,818 filed on May 25, 2004, now U.S. Patent No. 7,285,723 which is a continuation-in-part application of PCT Application US03/18115 having an international filing date of June 6, 2003..."

The Manual of Patent Examining Procedure (MPEP) section 201.11(III)(C) states in part:

> Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

In the present case, a review of application 10/852,818 finds that it does not contain a proper reference to international application PCT/US03/18115. As such, the amendment cannot be accepted as drafted and before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and correction of U.S. application 10/852,818 is required. Applicant is advised to consider the provisions set forth in MPEP § 1481.03 for correcting benefit claims under 35 U.S.C. 120 in a U.S. patent.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Leviton Manufacturing Company Incorporated
(CDFS)
c/o Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Rd. Ste. 420
Melville NY 11747

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PCT LEGAL ADMINISTRATION

In re Application of
Leslie Lindenstraus, et al.
Application No. 11/751,347
Filed: May 21, 2007
Attorney Docket No. 1640-7 CIP II DIV

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 22 June 2011 and supplemented on 29 September 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application and non-provisional applications set forth in the amendment filed concurrently with the instant petition.

The renewed petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international and non-provisional 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 Director may require additional information where there is a question whether the delay was unintentional.

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

that (1) a reference to the prior-filed international and 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 and 365 (c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. 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 2835 for appropriate action on the amendment filed 29 September 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365 (c) to the prior-filed applications.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHLUMBERGER TECHNOLOGY CORPORATION
DAVID CATE
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND, TX 77478

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SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Douglas Pipchuk, et al.
Application No.: 11/751,359
Filed: May 21, 2007
Attorney Docket No.: 25.0428

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 11, 2010.

The application became abandoned for failure to pay the issue and publication fees on or before June 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 12, 2010. Accordingly, the application became abandoned on June 13, 2010. This decision precedes the mailing of a Notice of Abandonment.

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

Accordingly, the petition is GRANTED.

It is noted that address given on the petition differs from the address of record. If appropriate, 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.

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

cc: MICHAEL L. FLYNN
555 INDUSTRIAL BLVD., MD-21
SUGAR LAND, TX 77478

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARCELO, HARRISON & WALKER, LLP
2901 W. COAST HWY
SUITE 200
NEWPORT BEACH CA 92663

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JUL 18 2011
OFFICE OF PETITIONS

In re Application of :
ORGILL, et al :
Application No. 11/751,484 : **DECISION ON PETITION**
Filed: May 21, 2007 :
Attorney Docket No. MOT-0010-P :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

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 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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 8, 2010.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 9, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2178 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

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/751,891	
First Named Inventor:	Title of Invention:
Takehiro HIRAI	Image Search Apparatus, Image Search System ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Michael H. Jacobs/	Date June 7, 2011
Name (Print/Typed) Michael H. Jacobs	Practitioner Registration Number 41870

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

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

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

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

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JUN 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Hirai et al.	:	
Application No. 11/751,891	:	DECISION ON PETITION
Filed: May 22, 2007	:	
Attorney Docket No. 104349.59118US	:	

This is a decision on the request filed June 7, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on March 10, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 2624 for re-mailing the Office action of March 10, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: August 24, 2011
TO: Certificates of Correction Branch
FROM: Edward J. Glick
SPE, Art Unit 2882
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,676,023 as specified on the attached Certificate.

/Edward J Glick/

Edward J. Glick, SPE
Art Unit 2882

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,676,023
Patented: March 9, 2010

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Philipp Lang, Lexington, MA (US)
Daniel Steines, Lexington, MA (US)

/Edward J Glick/

Edward J. Glick
Supervisory Patent Examiner
Art Unit 2882

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

MAILED

DEC 29 2010

OFFICE OF PETITIONS

In re Application of :
Euy-Young JUNG, *et al.* :
Application No. 11/751,958 : DECISION GRANTING PETITION
Filed: May 22, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **66309/P849** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 28, 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 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JETTER & ASSOCIATES, P.A./
UNIVERSITY OF CENTRAL FLORIDA
RESEARCH FOUNDATION, INC.
8295 NORTH MILITARY TRAIL, SUITE B
PALM BEACH GARDENS FL 33410

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,942,646 :
Issue Date : May 17, 2011 :
Application No. 11/752,021 : ON PETITION
Filed: May 22, 2007 :
Attorney Docket No. UCF-7143 :

This is a decision on the petition, filed May 26, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's information so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

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

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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MARSH FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER CO 80237

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of :
Cope, et al. :
Application No. 11/752,023 : DECISION ON PETITION
Filed: May 22, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 50146-00020 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 15, 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 No. 11/556,094, set forth in the Amendment submitted 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 instant petition does not meet requirement (1) above. Specifically, there is no co-pendency between the instant application and application No. 11/556,094. The '094 application became abandoned on February 7, 2007, whereas the instant application was filed on May 22, 2007.

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Supervisor
Office of Petitions

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MARSH FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER CO 80237

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Cope, et al.	:	
Application No. 11/752,023	:	DECISION ON PETITION
Filed: May 22, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 50146-00020	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 25, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application No. 11/556,094, set forth in the Amendment submitted 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 instant petition does not meet requirement (1) above. Specifically, applicant has not stated the relationship (e.g. continuation, continuation-in-part, divisional) between the instant application and application No. 11/556,094.

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

By mail: Mail Stop PETITIONS
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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 inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MARSH FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER CO 80237

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Cope, et al.	:	
Application No. 11/752,023	:	DECISION ON PETITION
Filed: May 22, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 50146-00020	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 3, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application No. 11/556,094, set forth in the Amendment submitted 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 application is currently under a final Office action, mailed June 7, 2011. As such, the Amendment filed June 3, 2011 will not be entered because it fails to place the application in condition for allowance.

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Petitions Examiner
Office of Petitions

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

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Steven B. Krogh, et al.	:	
Application No. 11/752,038	:	DECISION GRANTING PETITION
Filed: May 22, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. BO1-0411US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 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 November 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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OBLON, SPIVAK, MCCLELLAND MAIER
& NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application:
Moo Ho Bae et al.
Application No. 11/752,045
Filed: May 22, 2007
Attorney Docket No. 309137US8

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 3777.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-23-2010

TO SPE OF : ART UNIT ~~1638~~ 2836

SUBJECT : Request for Certificate of Correction for Appl. No: 11/752049 Patent No: 7672107

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Discrependency with the claims

Eva James
Certificates of Correction Branch
703-756-1583 _____

Thank You For Your Assistance

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

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

The certificate of correction has been approved since it corrects typographical errors and does not change the scope of the invention.

Jared Fureman
SPE

2836
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Pap

DATE : 08/30/11

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/752117 Patent No.: 78650

CofC mailroom date:

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** docun the IFW application image. No new matter should be introduced, nor should the meaning of the claims be changed.

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

FOR PAPER FILES:

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

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

RoChaun Ha
Certificates of Correc
703-756-15

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

Comments:

THAI QUTRAN
SUPERVISORY PATENT EXAMINER
CENTER 2600 2400

SPE

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND
CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Patent of Zhang et al.	:	ON APPLICATION FOR
Patent No. 7,777,035	:	PATENT TERM ADJUSTMENT
Issue Date: August 17, 2010	:	AND NOTICE OF INTENT TO
Application No. 11/752,201	:	ISSUE CERTIFICATE OF
Filed: May 22, 2007	:	CORRECTION
Atty Docket No. 019934-005930US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 1, 2010. The petition was timely filed under 37 CFR § 1.705(b). However, it is noted that the application matured into Patent No. 7,777,035 on August 17, 2010. As a result, the Office will issue a certificate of correction to address patentees' concern.

Patentees request the determination of patent term adjustment indicated on the patent be reviewed because it appears to omit a reduction of the PTA that might have been triggered by the filing of a response on November 16, 2007 to a Notice to File Missing Parts of Nonprovisional Application, mailed June 19, 2007.

The request for review of the patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred seventy-five (375) days.

On August 17, 2010, the above-identified application matured into U.S. Patent No. 7,777,035 with a revised patent term adjustment of 433 days.

Patentees disclose they believe that the patent term adjustment indicated in the patent is incorrect and should be recalculated because the Office failed to consider the filing of a response on November 16, 2007 to a Notice to File Missing Parts of Nonprovisional Application, mailed June 19, 2007.

Pursuant to 37 CFR 1.704(b), a period of reduction of 58 days should have been entered. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, patentees did fail to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice to File Missing Parts of Application mailed June 19, 2007 within the three-month period provided for in 37 CFR 1.704(b). Patentees did not file a complete and proper response until November 16, 2007. Accordingly, a period of reduction of 58 days is being entered for the period beginning on September 20, 2007, the day after the date that is three months after the date of mailing of the Notice, and ending on November 16, 2007, the date patentees' reply was filed.

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 **three hundred seventy-five (375) days**, which is 433 days of A delay + 87 B delay - 145 (58 + 87)days of applicant delay.

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

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

The Office acknowledges receipt of the required $200.00 fee under 37 CFR 1.18(e).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred seventy-five (375)** 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 : 7,777,035 B2

DATED : **August 17, 2010** **DRAFT**

INVENTOR(S) : Zhang 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 433 days

Delete the phrase "by 433 days" and insert – by 375 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11752201 Patent No.: 7777035

CofC mailroom date: 2/14/11

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
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

AU 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

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LIEBERMAN & BRANDSDORFER, LCC
802 STILL CREEK LANE
GAITHERSBURG MD 20878

MAILED

JAN 04 2012

OFFICE OF PETITIONS

In re Application of :
Korupolu et al. : DECISION ON PETITION
Application No. 11/752,288 :
Filed: May 22, 2007 :
Atty Docket No.ARC920070013US1:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 22, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed March 24, 2011. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned effective June 25, 2011. A courtesy Notice of Abandonment was mailed on November 8, 2011.

The petition includes the required reply, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

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.

Technology Center AU 3624 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed December 22, 2011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Patent No. 7,724,046
Wendt et al.
Issue Date: May 25, 2010
Application No. 11/752,296
Filed: May 22, 2007
Attorney Docket No. TI-62561
Title: HIGH SIDE/LOW SIDE DRIVER DEVICE FOR SWITCHING ELECTRICAL LOADS

DECISION ON PETITION

MAILED

OCT 15 2010

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.55(a)(2), filed April 30, 2010 for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d).

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. *See* Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is presently before the deciding official in the Office of Petitions, action on the petition under 37 CFR 1.55(a)(2) has been undertaken. However, since the petition decision was not rendered prior to the issuance of the patent petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 323 and pay the required fee of $100.

Any questions concerning this decision should be directed to Charlema Grant at (571) 272-3215. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (571) 272-4200.

Christopher Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAMBUS INC.
C/O ANN WILLIAMS
4440 EL CAMINO REAL
LOS ALTOS CA 94022

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application:	:	
Rhoades et al.	:	
Application No. 11/752,299	:	ON PETITION
Filed: May 23, 2007	:	
Attorney Docket No. 0120-024C1	:	

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.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kenneth B. Leffler
Potomac Patent Group, PLLC
P.O. Box 270
Fredericksburg, VA 22404

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GLENN PATENT GROUP - RAMBUS INC.
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

MAILED

NOV 01 2010

OFFICE OF PETITIONS

In re Application of	:	
John Rhoades, et al.	:	
Application No. 11/752,300	:	NOTICE
Filed: May 23, 2007	:	
Atty Docket No.: RAMB0001D2	:	

This is a notice regarding a request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 30, 2010.

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

The 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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

MAILED
JAN 20 2011
OFFICE OF PETITIONS

In re Application of
Hideki Fujimoto, et al.
Application No.: 11/752,319
Filed: May 23, 2007
Attorney Docket No.: 500.47477X00

ON PETITION

This is a decision in response to the petition, filed November 12, 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 March 19, 2010. A Notice of Abandonment was mailed on November 9, 2010. On November 12, 2010, the present petition was filed.

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.

The application is being referred to Technology Center AU 3748 for appropriate action by the Examiner in the normal course of business on the response filed November 12, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OCT 25 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,697,845
Issue Date: April 13, 2010
Application No. 11/752,331
Filed: May 23, 2007
Attorney Docket No. 520.47487X00

DECISION ON PETITION

This is a decision on the Petition For Suspension Of The Rules And Certificate Of Correction Under 37 CFR 1.323, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Petition is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL-85B and that such error to be corrected was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct 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 Petition.

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,697,845.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Lensen et al.	:	
Application No. 11/752341	:	ON PETITION
Filing or 371(c) Date: 05/23/2007	:	
Attorney Docket Number: MULLP0111US	:	

This is a decision on the petition to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 2010.

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 31, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 1, 2010.

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

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

This application is being referred to Technology Center AU 1634 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS MI 48304-5086

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of
Daniel R. Ouwenga
Application No. 11/752,345
Filed: May 23, 2007
Attorney Docket No. 07-MAR-024 (S)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed December 8, 2009 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. However, 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 3748 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

MAILED

NOV 16 2011

OFFICE OF PETITIONS

In re Application of :
Helmut Diekmann, et al. :
Application No. 11/752,383 : ON PETITION
Filed: May 23, 2007 :
Attorney Docket No.: 14069*93 (BMS 06 1 042) :

This is a decision in response to the petition, filed November 2, 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 December 10, 2010. A Notice of Abandonment was mailed on August 15, 2011. On November 2, 2011, the present petition was filed.

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; (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

Petitioner is reminded that the grant of a petition under 37 CFR 1.137 is not a determination that any reply is complete, since the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the Examiner may, upon more detailed review, determine that the reply is lacking in some respect.

The application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the response filed November 2, 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/752,444	05/23/2007	Tom S. Berger	P07023US1	3769

34082 7590 08/10/2011

ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES, IA 50309-2350

EXAMINER	
COLLINS, MICHAEL	
ART UNIT	PAPER NUMBER
3651	

NOTIFICATION DATE	DELIVERY MODE
08/10/2011	ELECTRONIC

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

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

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

bstills@zarleylaw.com

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AUG - 9 2011

ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES IA 50309-2350

In re Application of	:	
TOM S. BERGER	:	DECISION ON PETITION
Application No. 11/752,444	:	UNDER 37 CFR §1.181
Filed: May 23, 2007	:	
For: FOOD PRODUCT DISPENSING APPARATUS	:	

This is a decision on applicants' petition under 37 CFR 1.181 filed on October 21, 2009 requesting withdrawal of the drawings objection made in the final Office action mailed on July 21, 2009.

The petition is **DISMISSED.**

The record reflects that a first non-final Office action was mailed on December 12, 2007, followed by applicant's response on December 26, 2007, followed by a second non-final Office action mailed on March 18, 2008. Thereafter, applicant filed an amendment on May 28, 2008 followed by a first final Office action mailed on August 1, 2008 in which claims 1-6 and 9-10 were rejected, and claims 7-8 were indicated allowable. Applicant filed an amendment after final on September 3, 2008 to cancel claims 1-6 and 9-10, and to request reconsideration of the final rejection. A third non-final Office action was mailed on October 1, 2008 in which the examiner granted the request for reconsideration by withdrawing the finality of the August 1, 2008 Office action; withdrew the indicated allowability of claims 7-8; objected to the drawings for not showing the structure of the actuating mechanism and its placement in relation to the rest of the device as described in the specification. The examiner also rejected claims 7-8 under 35 USC 112, first paragraph on enablement. Applicant filed an amendment on November 26, 2008 to amend drawing figure 3 to include reference numeral 34, and argue against the drawing objection and the 35 USC 112 rejection of claims 7-8. A second final Office action was mailed on July 21, 2009 in which the examiner maintained the drawing objection and 35 USC 112 rejection of claims 7-8.

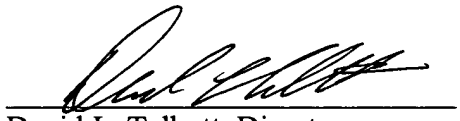
On August 24, 2009, applicant filed an a second after-final amendment that includes a cancellation of claim 8, an amendment to drawing figures 2 and 3 to add element 42 in both figures, and to relocate element 64 in figure 3. An advisory action was mailed on October 14, 2009 denying entry of the after final amendment. Applicant filed a notice of appeal and the instant petition on October 21, 2009.

In the petition, applicant asserts that each and every feature of the claims is shown in the amended drawings. Applicant argued that only claim 7 is remaining, that each and every feature of claim 7 is shown in figures 1 and 2, and that since claims 1-6 and 8-10 have been cancelled all other objections are rendered moot.

> MPEP § 608.02(d) states that "Any structural detail that is of sufficient importance to be described should be shown in the drawing. (Ex parte Good, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911).)"

Applicant's arguments have been considered but not found persuasive. Since the actuating mechanism and its placement in relation to the rest of the food dispensing device is of sufficient importance to be described in the specification, they are deemed essential for a proper understanding of the disclosed invention. As such, the actuating mechanism and its placement in the food dispensing device should be shown in the drawing as required by MPEP § 608.02(d). As the drawing was objected to because the described details of the actuating mechanism were not shown, not because the drawings fail to show the claimed subject matter (of the actuating mechanism) recited in at least claim 8, the cancellation of claims 1-6 and 8-10 does not overcome the drawing objection. Since the structure of the actuating mechanism and its placement in the food dispensing device are not adequately shown, the drawing objection is proper and hereby maintained. Therefore, applicant's request to withdraw the examiner's objection of the drawings is dismissed.

Inquiries related to this decision may be directed to Quality Assurance Specialist Lanna Mai at (571) 272-6867.



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

lm: 7/28/11

LM

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Application of :
Schneider, et al. :
Application No. 11/752,456 : NOTICE
Filed: May 23, 2007 :
Attorney Docket No. H01.2-13534-US01 :

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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Bib Data Sheet

CONFIRMATION NO. 3787

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/752,456	05/23/2007 RULE	194	3653	H01.2-13534-US01

APPLICANTS

Thorsten Schneider, Apensen, GERMANY;
Horst Buschmann, Harsefeld, GERMANY;

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

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

GERMANY 20 2006 014 221.5 09/16/2006

IF REQUIRED, FOREIGN FILING LICENSE GRANTED

** 06/11/2007

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	GERMANY	2	6	1
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS

490

TITLE

VENDING MACHINE SYSTEM

FILING FEE RECEIVED		
425	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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Decision Date : October 24,2011

In re Application of :

Scott Ferguson

Application No : 11752482

Filed : 23-May-2007

Attorney Docket No : 3380-US-D1

DECISION ON PETITION

UNDER CFR 1.137(b)

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply 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	11752482
Filing Date	23-May-2007
First Named Inventor	Scott Ferguson
Art Unit	2612
Examiner Name	SON TANG
Attorney Docket Number	3380-US-D1
Title	RFID DEVICE AND METHOD OF FORMING

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

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

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

◉ Drawing corrections and/ or other deficiencies are not required

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

○ Drawing corrections and/ or other deficiencies are attached.

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Amber C. Ruic/
Name	Amber C. Ruic

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OFFICE OF PETITIONS

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

In re Application of :
Anthony G. Macaluso :
Application No. 11/752,503 : DECISION ON PETITION
Filed: May 23, 2007 TO WITHDRAW FROM RECORD
Attorney Docket No. 13817-0015001/ :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 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 John C. Phillips on behalf of all attorneys of record who are associated with Customer Number 20985.

All attorneys/agents associated with the Customer Number 20985 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 October 19, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Anthony G. Macaluso / Single Touch Interactive, Inc.
2235 Encinitas Boulevard, Suite 210
Encinitas, CA 92024

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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of :
Anton Mauder, et al. :
Application No. 11/752,590 : DECISION ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. :
I431.208.101/FIN878US

This is a decision on the petition, filed September 1, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This application was held abandoned for failure to reply to the Restriction Requirement Office action of September 3, 2008, which set a thirty (30) days or one (1) month which is longer for reply. A Notice of Abandonment was mailed on April 15, 2009.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Response to Restriction Requirement) was filed by way of the Office Electronic Filing System (EFS) on October 2, 2008. A review of the application file the record confirms a receipt by way of EFS of a reply on October 2, 2008. However, while the EFS receipt identified the instant application by its application number, the reply included therewith by petitioner listed an incorrect application number. The reply filed by EFS on October 2, 2008, was directed to application 11/701,044. Under current Office

procedure, if a paper contains the incorrect application number, but contains sufficient information to identify the correct application and was timely filed, the paper would be transferred to the correct application's file record. In reviewing the papers submitted on October 2, 2008, in the instant application, it is concluded that the information submitted did not include therein data (i.e., inventor's name, examiner's name, title of the invention, etc.) sufficient to associate the response filed on October 2, 2008, with the above-identified application. Therefore, the instant application was properly held abandoned for failure to timely file a proper reply to the Restriction Requirement Office action of September 3, 2008. The application became abandoned by law on October 4, 2008. Accordingly, the instant petition to withdraw the holding of abandonment cannot be granted at this time.

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);
>
> (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 $1620 petition fee.

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

MAILED

MAY 06 2011

OFFICE OF PETITIONS

In re Application of :
Anton Mauder et al. :
Application No. 11/752,590 : DECISION ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. :
I431.208.101/FIN878US

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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 Restriction Requirement, mailed September 3, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 4, 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 Election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2818 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

MAILED

MAY 06 2011

OFFICE OF PETITIONS

In re Application of :
Anton Mauder et al. :
Application No. 11/752,590 : DECISION ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. :
I431.208.101/FIN878US

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

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

This application is being referred to Technology Center AU 2818 for appropriate action by the Examiner in the normal course of business on the reply received.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Application of :
Carry, et al. :DECISION ON APPLICATION
Application No.: 11/752,612 :FOR ADJUSTMENT
Filed: May 23, 2007 :PATENT TERM ADJUTSMENT
Attorney Docket No. **FRAV2004/0032 US CNT** :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed December 13, 2010. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from four hundred and eighty-one (481) days to four hundred and thirty-two (432) days.

The request for review of determination of the patent term adjustment is **GRANTED.**

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 **four hundred and thirty-two(432) days.** A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On September 21, 2010, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 481 days. On December 13, 2010, applicant submitted the instant petition. Applicant asserts the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed September 21, 2010, is incorrect. Specifically, applicant states that:

1. On June 27, 2007, the USPTO issued a Notice to File Missing Parts of Nonprovisional Application Filed under 37 CFR 1.53(b) Filing Date Granted.
2. On November 15, 2007 Applicants responded to the June 27, 2007 Notice. Applicant believe that they delayed 49 days in responding to the June 27, 2007 Notice.

Excerpt taken from, "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed December 13, 2010. *pg. 1.*

It is determined that applicant should have been assessed a delay under 37 CFR 1.704(b)[1] for filing a reply in excess of the three month period from the June 27, 2007, mailing date of the Notice to File Missing Parts of Non-Provisional Application. On June 27, 2007, a Notice to File Missing Parts of Non-Provisional Application was mailed. Applicants did not file a reply until November 15, 2007. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 49 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notice to File Missing Parts of Non-Provisional Application, September 28, 2007, and ending on the date the reply was filed, November 15, 2007. **A period of reduction of 49 days will be entered.**

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is **four hundred and thirty-two days** (481 days of Office delay - 49 days of Applicant delay).

Deposit account 18-1982 will be charged $200.00 fee for the fee set forth in 37 CFR 1.18(e) which is a requirement for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] 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.

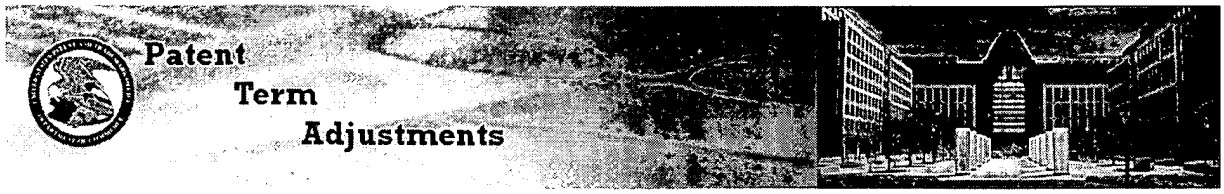
Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Telephone inquiries regarding this specific matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



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

Application Number*: 11752612 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11752612

Application Filing Date	05/23/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	481
A Delays	481	PTO Manual Adjustment	-49
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	432

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
59	12/29/2010		P028	Adjustment of PTA Calculation by PTO		49	0
49	09/21/2010		MN/=.	Mail Notice of Allowance			0
48	09/16/2010		IREV	Issue Revision Completed			0
47	09/16/2010		DVER	Document Verification			0
46	09/16/2010		N/=.	Notice of Allowance Data Verification Completed			0
45	09/16/2010		DOCK	Case Docketed to Examiner in GAU			0
44	09/10/2010		CNTA	Notice of Allowability			0
43	07/18/2010		FWDX	Date Forwarded to Examiner			0
42	07/15/2010		A...	Response after Non-Final Action			0
41	04/15/2010		ELC_RVW	Electronic Review			0
40	04/15/2010		EML_NTF	Email Notification			0
39	04/15/2010		MCTNF	Mail Non-Final Rejection			0
38	04/12/2010		CTNF	Non-Final Rejection			0
30	02/05/2010		FWDX	Date Forwarded to Examiner			0
32	01/12/2010		IDSC	Information Disclosure Statement considered			0
31	01/12/2010	01/12/2010	M844	Information Disclosure Statement (IDS) Filed			29
29	01/12/2010		ELC.	Response to Election / Restriction Filed			0
28	01/12/2010		XT/G	Request for Extension of Time - Granted			0
27	01/12/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
26	11/16/2009		ELC_RVW	Electronic Review			0
25	11/16/2009		EML_NTF	Email Notification			0
24	11/16/2009	07/23/2008	MCTRS	Mail Restriction Requirement	481		-1
23	11/09/2009		CTRS	Requirement for Restriction / Election			0
22	03/18/2008		DOCK	Case Docketed to Examiner in GAU			0
21	03/07/2008		EML_NTR	Email Notification			0
20	03/06/2008		PG-ISSUE	PG-Pub Issue Notification			0
19	12/24/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	11/30/2007		OIPE	Application Dispatched from OIPE			0
14	11/22/2007		EML_NTR	Email Notification			0
13	11/21/2007		PGPC	Sent to Classification Contractor			0
12	11/21/2007		FLRCPT.U	Filing Receipt - Updated			0
11	11/15/2007		ADDFLFEE	Additional Application Filing Fees			0
10	11/15/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
18	08/10/2007		RQPR	Request for Foreign Priority (Priority Papers May Be Included)			0
9	06/27/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
7	06/25/2007		CRFE	CRF Is Good Technically / Entered into Database			0
6	06/12/2007		L128	Cleared by L&R (LARS)			0
5	05/30/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
4	05/30/2007		CLSS	CASE CLASSIFIED BY OIPE			0
3	05/28/2007		SCAN	IFW Scan & PACR Auto Security Review			0
33	05/23/2007		IDSC	Information Disclosure Statement considered			0
17	05/23/2007		RCAP	Reference capture on IDS			0
16	05/23/2007		M844	Information Disclosure Statement (IDS) Filed			0
8	05/23/2007		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
2	05/23/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
1	05/23/2007		IEXX	Initial Exam Team nn			0

Export to: Excel

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **7884123**
Ser. No. : **11/752612**
Inventor(s) : **CARRY, JEAN-CHRISTOPHE**
Issued : **02/08/2011**
Title : **SUBSTITUTED THIENO[2,3-C]PYRAZOLES, PROCESS FOR PREPARING THEM, COMPOSITIONS CONTAINING THEM, AND USE THEREOF**
Docket No. : **FRAV2004/0032 US CNT**

Re: Request for Certificate of Correction

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

In regards to the alleged error(s) in the Specification, Column 19 Line 47 the word P-32079-158-1 doesn't appear.

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

A Certificate of Correction can be issued to correct this error if the correct Column and Line number is included in the C of C request. 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

SANOFI U.S.
U.S. PATENT OPERATIONS
1041 ROUTE 202-206
MAIL CODE: BWD-303A
BRIDGEWATER, NEW JERSEY 08807

OL

UNITED STATES PATENT AND TRADEMARK OFFICE

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

August 9, 2011

Irfan A. Lateef
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

Patent No.: 7,984,853 B2
Application No.: 11/752,649
Inventor(s): Muhammad Safder Ali
Issued: July 26, 2011
Title: **REDUCING INTERNAL THEFT AT A POINT OF SALE**

Re: Request for Certificate of Correction

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

A petition under C.F.R. 1.182 is, required to correct the alleged error in an inventor's name/address, since an inventor's address is printed in accordance with the Declaration or the PTOL-85B (Issue Fee Transmittal), in file at the time of payment of the base issue fee. The Patent and Trademark Office did not make the error in the printing of the patent. An inventor's address is a matter not affecting the validity of technical subject mater of the patent, and since inventors often move both before the issuance of the patent and afterwards, no correction is in order under the provision of Rule 1.323, unless a petition under 1.18

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

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 1.182 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, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Jordan Gehrke, et al.
Application No. 11/752,651
Filed: May 23, 2007
Attorney Docket No. 134894-0002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2010.

The request is **APPROVED**.

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

The request was signed by Beverly Bunting on behalf of all attorneys of record who are associated with customer No. All attorneys/agents associated with the Customer Number 50659 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.

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

There is an outstanding Office action mailed April 12, 2010 that requires a reply from the applicant.

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

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

cc: JORDAN GEHRKE
PRECISION STRATEGIES
1155 15TH STREET NW
SUITE 614
WASHINGTON, DC 20005

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
11/752,651	05/23/2007	Jordan Gehrke	134894-0002

CONFIRMATION NO. 4119

POWER OF ATTORNEY NOTICE

50659
BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

OC00000043397465

Date Mailed: 09/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2010.

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

/amwise/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120119

DATE :

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 7988965

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/RAM R SHUKLA/
Supervisory Patent Examiner.Art Unit 1644

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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NAVAIRWD
COUNSEL GROUP (CODE K0000D)
1 ADMINISTRATION CIRCLE, STOP 1009
CHINA LAKE CA 93555-6100

MAILED

APR 12 2011

OFFICE OF PETITIONS

In re Application of :
Curtis E. Johnson et al :
Application No. 11/752,677 : DECISION ON PETITION
Filed: May 23, 2007 :
Attorney Docket No. 98309 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed September 21, 2010, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application:
Moo Ho Bae et al.
Application No. 11/752,678
Filed: May 23, 2007
Attorney Docket No. 309229US8

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 3777.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GlaxoSmithKline
GLOBAL PATENTS -US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
Ellis et al. :
Application No. 11/752,707 :
Filed: May 23, 2007 :
Attorney Docket No. PB61990 :
For: IMMUNOGLOBULINS :

LETTER REGARDING
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR §1.705(b)" filed August 28, 2010. Applicants request that the determination of patent term adjustment be corrected from one hundred eighty-three (183) days to two hundred sixty (260) days.

On May 28, 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 183 days.

However, on August 28, 2010, applicants filed a request for continued examination (RCE). Pursuant to this filing, prosecution may be reopened. It is noted that petitioner has not paid the issue fee.

In view thereof, the request for reconsideration of the patent term adjustment is **DISMISSED.**

After the mailing of any new Notice of Allowance, if applicants wish to request reconsideration of the patent term, applicants should renew the request by filing an application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicants must submit a timely application

for patent term adjustment in response to any new Notice of Allowance.

An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice.

Technology Center AU 1646 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

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

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEC 13 2011
OFFICE OF PETITIONS

GlaxoSmithKline
GLOBAL PATENTS -US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

In re Application of :
Ellis et al. :
Application No. 11/752,707 :
Filed: May 23, 2007 :
Attorney Docket No. PB61990 :
For: HUMANISED ANTI-INTERLEUKIN-18 ANTIBODY :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "APPLICATON FOR PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR §1.705(b)" filed December 9, 2011. Applicants request that the determination of patent term adjustment be corrected from four hundred fifty (450) days to five hundred ninety-one (591) days. Applicants' dispute the 77 day reduction. Applicants also request additional days based upon the failure to issue the patent within three years.

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].

To the extent that applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the

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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.

To the extent that Applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **GRANTED** to the extent indicated.

On September 20, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 450 days. The instant application for patent term adjustment was timely filed on December 9, 2011.

Applicants contend that the USPTO erroneously deducted 77 days pursuant to 37 CFR 1.704(c)(8) for the submission of a supplemental reply filed after the reply to the Office action on June 23, 2009. Applicants contend the supplemental amendment was filed after discussion with the examiner.

A review of the record shows that the 77 day reduction for the submission of the supplemental reply on September 8, 2009 was not warranted. 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, the submission of the September 8, 2009 supplemental response does not constitute a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the 77 day reduction will be removed.

However, further review of the record shows there are two additional instances that warrant a reduction pursuant to 37 CFR 1.704 (c)(8). A supplemental reply in the form of an information disclosure statement (IDS) was submitted on June 24, 2009 after a reply to the restriction requirement was submitted on June 23, 2009. A review of the record confirms that the supplemental reply in the form of IDS was not requested by the examiner nor did the IDS referenced contain a statement in accordance with 37 CFR 1.704(d). Accordingly, an additional period of reduction of 1 day is required.

In addition, applicants submitted a supplemental response in the form of an amendment on September 7, 2010. The supplemental amendment was submitted after the reply (request for continued examination (RCE)) was submitted on August 27, 2010. Accordingly, an additional period of reduction of 11 days is required.

Applicants' delay prior to the mailing of the Notice of Allowance is 71 days. Office delay prior to the mailing of the Notice of Allowance is 586 days

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance is five hundred fifteen **(515)** days.

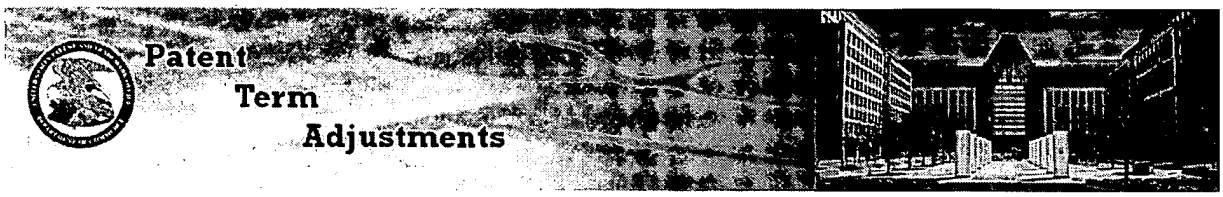
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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

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

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of REVISED PALM Screen



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

Application Number*: 11752707 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11752707

Application Filing Date	05/23/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	586
A Delays	586	PTO Manual Adjustment	65
B Delays	0	Applicant Delay (APPL)	136
C Delays	0	Total PTA (days)	515

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
99	12/11/2011		P028	Adjustment of PTA Calculation by PTO		11	0
98	12/11/2011		P028	Adjustment of PTA Calculation by PTO		1	0
97	12/11/2011		P028	Adjustment of PTA Calculation by PTO	77		0
86	09/20/2011	12/27/2010	MN/=.	Mail Notice of Allowance	267		68
85	09/14/2011		OAR	Office Action Review			0
84	09/14/2011		OAR	Office Action Review			0
83	09/14/2011		DVER	Document Verification			0
82	09/14/2011		N/=.	Notice of Allowance Data Verification Completed			0
81	09/13/2011		EX.R	Reasons for Allowance			0
80	09/13/2011		CNTA	Allowability Notice			0
79	12/17/2010		EML_NTR	Email Notification			0
78	12/15/2010		MPTDI	Mail-Petition Decision - Dismissed			0
77	12/14/2010		PTDI	Petition Decision - Dismissed			0
76	09/08/2010		FWDX	Date Forwarded to Examiner			0
75	09/07/2010		SA..	Supplemental Response			0
70	08/31/2010		FWDX	Date Forwarded to Examiner			0
67	08/31/2010		ABN9	Disposal for a RCE / CPA / R129			0
65	08/30/2010		TCPB	Printer Rush- No mailing			0
74	08/27/2010		IDSC	Information Disclosure Statement considered			0
73	08/27/2010		PET2	Petition Entered			0
72	08/27/2010		RCAP	Reference capture on IDS			0
71	08/27/2010		M844	Information Disclosure Statement (IDS) Filed			0
69	08/27/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
68	08/27/2010		RCEX	Request for Continued Examination (RCE)			0
66	08/27/2010		RU47	Rule 47 / 48 Correction of Inventorship Papers Filed			0
64	08/27/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
63	08/27/2010		BRCE	Workflow - Request for RCE - Begin			0
62	07/23/2010		FIDC	Finished Initial Data Capture			0
61	07/21/2010		EML_NTR	Email Notification			0
60	07/09/2010		MP327	Mail Acknowledgement of Priority Papers			0
59	07/07/2010		P327	Priority Paper Acknowledgement			0
58	06/18/2010		CRFT	Sequence Forwarded to Pubs on Tape			0
56	06/01/2010		ELC_RVW	Electronic Review			0
57	05/31/2010		EIDC	Export to Initial Data Capture			0
55	05/28/2010		EML_NTR	Email Notification			0
54	05/28/2010		EML_NTF	Email Notification			0
53	05/28/2010		MEX.A	Mail Examiner's Amendment			0
52	05/28/2010		MN/=.	Mail Notice of Allowance			0
51	05/21/2010		IREV	Issue Revision Completed			0
50	05/21/2010		DVER	Document Verification			0
49	05/21/2010		N/=.	Notice of Allowance Data Verification Completed			0
48	05/21/2010		DOCK	Case Docketed to Examiner in GAU			0
47	05/12/2010		EX.A	Examiner's Amendment Communication			0
46	05/12/2010		CNTA	Allowability Notice			0
45	04/14/2010		FWDX	Date Forwarded to Examiner			0
44	03/26/2010	01/26/2010	A...	Response after Non-Final Action		59	38
43	03/26/2010		XT/G	Request for Extension of Time - Granted			0
40	10/26/2009		ELC_RVW	Electronic Review			0
39	10/26/2009		EML_NTF	Email Notification			0
38	10/26/2009	10/23/2009	MCTNF	Mail Non-Final Rejection	3		29
37	10/22/2009		CTNF	Non-Final Rejection			0
35	09/10/2009		FWDX	Date Forwarded to Examiner			0
34	09/08/2009	06/23/2009	SA..	Supplemental Response		77	29
33	09/08/2009		EML_NTR	Email Notification			0
32	09/08/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0

31	08/31/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)		0
30	08/04/2009		FWDX	Date Forwarded to Examiner		0
42	06/24/2009		RCAP	Reference capture on IDS		0
41	06/24/2009		M844	Information Disclosure Statement (IDS) Filed		0
36	06/24/2009		IDSC	Information Disclosure Statement considered		0
28	06/24/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
29	06/23/2009		ELC.	Response to Election / Restriction Filed		0
27	06/04/2009		ELC_RVW	Electronic Review		0
26	06/04/2009		EML_NTF	Email Notification		0
25	06/04/2009	07/23/2008	MCTRS	Mail Restriction Requirement	316	0.5
24	06/02/2009		CTRS	Restriction/Election Requirement		0
23	03/09/2009		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0
20	01/03/2008		DOCK	Case Docketed to Examiner in GAU		0
19	12/21/2007		EML_NTR	Email Notification		0
18	12/20/2007		PG-ISSUE	PG-Pub Issue Notification		0
16	11/08/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
15	10/01/2007		OIPE	Application Dispatched from OIPE		0
14	09/10/2007		PGPC	Sent to Classification Contractor		0
13	09/10/2007		COMP	Application Is Now Complete		0
10	09/07/2007		C.AD	Correspondence Address Change		0
17	08/27/2007		C602	Oath or Declaration Filed (Including Supplemental)		0
12	08/27/2007		ADDFLFEE	Additional Application Filing Fees		0
11	08/27/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
5	06/26/2007		CRFE	CRF Is Good Technically / Entered into Database		0
3	06/01/2007		L194	Cleared by OIPE CSR		0
2	05/27/2007		SCAN	IFW Scan & PACR Auto Security Review		0
6	05/23/2007		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT		0
1	05/23/2007		IEXX	Initial Exam Team nn		0
0.5	05/23/2007		EFILE	Filing date		0

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BRIAN S. BOYER, PH.D.
493 SEAPORT CT.
SUITE 105
REDWOOD CITY, CA 94063

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of :
Yong Chen, et al. :
Application No. 11/752,725 : DECISION GRANTING PETITION
Filed: May 23, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. BCBCP014 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 17, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1649 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed oath and terminal disclaimer.

/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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of
SAKATA, MUNETAKA
Application No. 11/752,749
Filed: May 23, 2007
Attorney Docket No. 10040160US01

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 June 29, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must 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.

The request to participate in the PPH program and petition is deficient as follows:

Petitioner has not complied with item 6 above in that an IDS listing all documents cited by the JPO examiner in the JPO office action along with copies thereof were not submitted. The

following Japanese Patent Laid-Open references should be listed on an IDS and copies thereof submitted:

8-293979,
4-152755.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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SEP 14 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
SAKATA, MUNETAKA	:	DECISION ON REQUEST TO
Application No. 11/752,749	:	PARTICIPATE IN PATENT
Filed: May 23, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 10040160US01	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed August 31, 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; and
(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.

The request to participate in the PPH program and petition now comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

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.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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JAN 19 2012
OFFICE OF PETITIONS

In re Application of :
Voss-Kehl et al. : DECISION ON
Application No. 11/752,752 : PETITION
Filed: May 23, 2007 :
Attorney Docket No. 58227US011:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 19, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a timely and proper reply to the final Office action sent June 10, 2011. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A reply, made timely by an extension of time for response within the second month, was filed on November 9, 2011. However, it was determined not to place the application in condition for allowance (See Advisory Action mailed November 23, 2011). No further reply received and no further extension of time obtained, the application became abandoned effective November 11, 2011. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of the previously submitted after-final amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 2629 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE (and previously-filed submission) submitted on petition filed December 19, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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MAR 24 2011

OFFICE OF PETITIONS

In re Application :
Ahmadreza Rofougaran et al. :
Application No. 11/752,754 : DECISION ON APPLICATION
Filed: May 23, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 18585US02 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed February 17, 2011. Applicant requests that the determination of patent term adjustment be corrected from 508 to 881 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 is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment

and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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

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.

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6285 Lookout Road
Boulder CO 80301

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In re Application of	:	
Figaro et al.	:	
Application No.: 11/752759	:	DECISION ON
Filing or 371(c) Date: 05/23/2007	:	PETITION
Attorney Docket Number: 3025058 US01	:	

This is a decision in response to the "Petition to Withdraw Abandonment," filed December 5, 2011. The petition is properly treated under 37 C.F.R. 1.181(a).

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 reply to the Notice of Panel Decision from Pre-Appeal Brief Review, mailed June 30, 3011. The Notice set a one month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on July 31, 2011. A Notice of Abandonment was mailed November 25, 2011.

The present petition

Applicant files the present petition and avers non-receipt of the Notice. In support of this assertion, Petitioner provides that the correct mailing address and telephone number were printed on the latest correspondence with this Office. Petitioner provides further that at the same time the USPTO letter was sent, there was a problem with the address corresponding with petitioner's customer number, and an earlier attempt to change the customer number electronically did not take in the USPTO system. This, Petitioner provides, was later remedied by sending a physical letter request to change Representatives customer number. Further to this, Petitioner asserts that he received no telephone call indicating there was a problem, even though there is no change in telephone number, and no attempts by this Office to re-send the letter to Petitioner's address made of record in a previous filing under Petitioner's signature, as shown in Exhibit B included with the petition.

Office records

A review of Exhibit B and of Office records reveal that Applicant filed a Pre-Appeal Brief Request for Review on April 12, 2011, and included the current correspondence address in "Applicant's Remarks for Pre-Appeal Brief Request for Review," on the last page – the signature page. Applicant had also previously filed an Amendment on January 4, 2011, and also included on the last (signature) page the current correspondence address. In the interim of these two filings, Applicants also filed a "Record of Telephone Interview" on March 9, 2011 however, no correspondence address was included thereon.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to

> a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

MPEP 711.03(c).

The MPEP states that "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly **notifying** the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11. The **notification** should also include his or her telephone number. MPEP 601.03. (Emphasis added).

MPEP 711.03(c) provides as follows:

> For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and **in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address**. The following do not constitute proper notification of a change in correspondence address:
> (A) **the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made**

Analysis and conclusion

Petitioner provides that the correct mailing address and telephone number were printed on the latest correspondence with this Office. However, Petitioner was required to notify this Office of the change of correspondence address. As noted supra, the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made, does not constitute proper notification of a change in correspondence address. Absent a proper notification of a change of correspondence address, the Office properly mailed the Notice to the correspondence address of record. Applicant has failed to demonstrate that the Office action was not received at the correspondence address of record and thereafter lost after receipt, or that a timely and proper Change of Correspondence Address was filed in the above-identified application. The petition is dismissed.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C.

§ 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 10 2012

OFFICE OF PETITIONS

Spectra Logic Corporation
6285 Lookout Road
Boulder CO 80301

In re Application of :
Figaro et al. :
Application No. 11/752759 : DECISION
Filing or 371(c) Date: 05/23/2007 : ON PETITION
Title of Invention: :
PASSIVE ALTERABLE ELECTRICAL COMPONENT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Panel Decision from Pre-Appeal Brief Review ("Notice"), mailed June 30, 2011. The Notice set a one (1) month period, or the balance of the two month period from the filing of the Notice of Appeal, for applicant to file an appeal brief, whichever was longer. Extensions of time were available under 37 CFR 1.136. No reply having been filed, the application became abandoned August 1, 2011. A Notice of Abandonment was mailed November 25, 2011.

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

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

This application is being referred to Technology Center AU 2835 for processing of the Appeal Brief, and for appropriate action by the Examiner in the normal course of business.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 21 2011

OFFICE OF PETITIONS

SOUTHWEST RESEARCH INSTITUTE
P.O. DRAWER 28510
SAN ANTONIO TX 78228-0510

In re Application of :
WEI, et al :
Application No. 11/752,787 : NOTICE
Filed: May 23, 2007 :
Attorney Docket No. SWR3267 :

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

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

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

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-09-11

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/752823 Patent No.: 7964430

CofC mailroom date: 09-01-11

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

Note: _____

_____

Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: All Changes are approved.

SPE Mark S. Prouty SPE Art Unit 2823

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FERNANDEZ & ASSOCIATES, LLP
P.O. BOX D
MENLO PARK CA 94026

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of :
Valentine Marciel et al. :
Application No. 11/752,832 : DECISION ON PETITION
Filed: May 23, 2007 : TO WITHDRAW
Attorney Docket No. EZREZ-P008 : 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 16, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD IL 61101

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of Sid Chanthalangsy :
Application No. 11/752,862 : Decision on Petition
Filing Date: May 23, 2007 :
For: Multi-Filament Fly Swatter :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2010, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on November 24, 2008. The Office action set a shortened statutory period for reply of three (3) months.

A reply to the Office action and payment for a three-month extension of time were *untimely* filed June 23, 2009.

Since a reply was not timely filed and an extension of time was not obtained, the application became abandoned on February 25, 2009.

The Office mailed a Notice of Abandonment on June 25, 2009.

The instant petition was filed May 14, 2010. The 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 non-final Office action in the form of an amendment filed with the instant petition. 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.

Petitioner submitted $555 on June 23, 2009, for a three-month extension of time. However, the maximum period for reply had already expired and payment for an extension of time is unnecessary when reviving an application. Therefore, the Office has scheduled a refund of the $555.

Technology Center Art Unit 3643 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RECHES PATENTS
211 NORTH UNION ST.
SUITE 100
ALEXANDRIA VA 22314

MAILED
AUG 02 2010
OFFICE OF PETITIONS

In re Application of :
Vladimir KOIFMAN :
Application No. 11/752,973 : DECISION ON PETITION
Filed: May 24, 2007 :
Attorney Docket No. P-71602-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 17, 2011

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No. 11/753014 patent No.:7854584 B2

C of C mailroom date:--5-3-11

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

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

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

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Edward Look/ — **SPE**

3745 — **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

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

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Wei LI	:	
Application No. 11/753,092	:	DECISION ON PETITION
Filed: May 24, 2007	:	
Attorney Docket No. 2006P23006 US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 02, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 16, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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 April 16, 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 2628 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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APPLIED OPTOELECTRONICS, INC.
13115 JESS PIRTLE BLVD.
SUGAR LAND, TX 77478

MAILED

NOV 17 2011

OFFICE OF PETITIONS

In re Application of :
Jun Zheng :
Application No. 11/753,162 : ON PETITION
Filed: May 24, 2007 :
Attorney Docket No. PAT084US :

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

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

The petition is **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 7, 2011. A Notice of Abandonment was subsequently mailed on August 12, 2011. On November 4, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), fee of $930, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2613 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KEVIN J. CARROLL
GROSSMAN TUCKER PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL ST.
MANCHESTER, NH 03101

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable):	Patent Number (if applicable):
11/753,199	
First Named Inventor:	Title of Invention:
K. SASAKI et al.	HIGH HUMIDITY GAS TURBINE EQUIPMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signature /Daniel J. Stanger/	Date May 12, 2011
Name (Print/Typed) Daniel J. Stanger	Practitioner Registration Number 32,846

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

☐ *Total of _____ forms are submitted.

Privacy Act Statement

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

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

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

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BRUNDIDGE & STANGER, P.C.
2318 MILL ROAD, SUITE 1020
ALEXANDRIA VA 22314

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Application of :
Sasaki et al. :
Application No. 11/753,199 : DECISION ON PETITION
Filed: May 24, 2007 :
Attorney Docket No. ASA-5818 :

This is a decision on the request filed May 12, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on November 26, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

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

This application is being referred to the Technology Center, Art Unit 3741 for re-mailing the Office action of November 26, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Hofgen NORBERT, et *al.* :
Application No. 11/753,260 : DECISION ON PETITION
Filed: May 24, 2007 : UNDER 37 CFR 1.181
Attorney Docket No. **HUBR-1297-US** :
(10705528)

This is in response to the petition, filed September 28, 2009 under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.137.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 18, 2009, which set a shortened statutory period for reply of three (3) months. A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 19, 2009.

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

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to petitioner's belief that they have met the requirements of the final Office action mailed February 18, 2009 and the advisory action mailed July 29, 2009. Petitioner states the examiner indicated (in advisory action of July 29, 2009) that the reply submitted on July 16, 2009 overcame the 112 rejection.

The file record discloses that although the examiner indicated the reply of July 16, 2009 overcame the original 112 rejection, the examiner also indicated that new claims 67-69 raised new issues under 35 U.S.C. § 112. As a result, the amendment failed to place the application in condition for allowance.

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

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

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1624 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
Petitions Examiner
Office of Petitions

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MARSHALL, GERSTEIN & BORUN LLP (FISHER)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Zecchi et al.	:	
Application No. 11/753,274	:	DECISION ON PETITION
Filed: May 24, 2007	:	
Attorney Docket No. 06005/811943	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 22, 2010, as required by the Notice of Allowance and Fee(s) Due mailed March 22, 2010. Accordingly, the date of abandonment of this application is June 23, 2010. A Notice of Abandonment was mailed July 1, 2010.

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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Richard A. Schuth (MEMC)
Armstrong Teasdale LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis MO 63105

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DEC 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,442,253 :
Issue Date: 10/28/2008 :
Application No. 11/753,294 : DECISION ON PETITION
Filed: 05/24/2007 :
Attorney Docket No. 28744-170 (972703.1) :

This is a decision on the petition under 37 CFR 1.182, filed November 17, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person or Kimberly Terrell, Office of Data Management at (571) 272-4200.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person, 2800 S. Randolph Street, Room D-30-A (FAX 571-270-9764)
Kimberly Terrell, 2800 S. Randolph Street, Room D-33 (FAX 571-270-9958)

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

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 11/753,307 : ON APPLICATION FOR
Filed: May 24, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 14249US02 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705), filed September 30, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred thirty-six (336) days, not twenty-seven (27) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

---

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Gopel, et al. :
Application No. 11/753,365 :
Filed: May 24, 2007 :
Attorney Docket No. H01.2-13631-US01 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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Bib Data Sheet

CONFIRMATION NO. 5429

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/753,365	05/24/2007 RULE	194	3653	H01.2-13631-US01

APPLICANTS

Stig Gopel, Osten, GERMANY;
Thorsten Schneider, Apensen, GERMANY;

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

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

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 06/11/2007

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	GERMANY	2	24	3
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS
490

TITLE

METHOD FOR OPERATING A COIN DISPENSING DEVICE AND A COIN DISPENSING DEVICE

FILING FEE RECEIVED		
590	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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ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612-1599

In re Application of :
Robert T. Lyons et al. :
Application No. 11/753,419 : DECISION ON PETITION
Filed: May 24, 2007 :
Attorney Docket No. **18179 (OCU)** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 03, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 08, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 11, 2011.

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

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

This application is being referred to Technology Center AU 1616 for processing of the RCE and

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MICHAEL I. KROLL
115 EILEEN WAY
SUITE 105
SYOSSET, NY 11791

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of :
Mario I. Jauregui :
Application No. 11/753,437 : DECISION ON PETITION
Filed: May 24, 2007 :
Attorney Docket No. JM-1-AM :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 4, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 21, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 21, 2010. Accordingly, the date of abandonment of this application is July 22, 2010.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

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350 EAST MICHIGAN AVENUE
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KALAMAZOO MI 49007-3800

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APR 10 2012
OFFICE OF PETITIONS

In re Application of :
Bannen, et al. :
Application No. 11/753,462 : ON REQUEST FOR
Filed: May 24, 2007 : RECONSIDERATION OF
Attorney Docket Number: 224990/04-064C2-US : PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed March 22, 2012. Applicant believes that the PTA should be accorded an additional two hundred sixty-two (262) days. Applicants request this correction in part on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

However, Applicants also point out that they should have not have been assessed two (2) days of Applicant delay under 37 CFR 1.704(b). Applicants filed an RCE on October 25, 2010, in response to a July 23, 2010 Notice of Allowance, and were assessed 2 days of Applicant delay. Applicants argue that they should not have been assessed any days of Applicant delay, as the due date (October 23, 2010) fell on a Saturday. Applicants' argument has been considered, and found to be persuasive.

In view thereof, the correct determination of PTA prior to issuance is **eight hundred six (806) days** (806 (729+49+28) days of PTO delay, reduced by 0 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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

Telephone inquiries specific to this decision should be directed to 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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SCHWEGMAN, LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED
JAN 14 2011
OFFICE OF PETITIONS

In re Application of :
Zhidan Cheng, et al. :
Application No. 11/753,470 : DECISION ON PETITION
Filed: May 24, 2007 : TO WITHDRAW
Attorney Docket No. 2579.001US1 : 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 30, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on July 7, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

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MAILED
JAN 14 2011
OFFICE OF PETITIONS

In re Application of
Zhidan Cheng, et al.
Application No. 11/753,470
Filed: May 24, 2007
Attorney Docket No. 2579.001US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 30, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on July 7, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/10

TO SPE OF : ART UNIT 2182

SUBJECT : Request for Certificate of Correction for Appl. No.: 11753477 Patent No.: 7685337

CofC mailroom date:
11/30/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

2182

for Tariq Hafiz.

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/10

TO SPE OF : ART UNIT 2182

SUBJECT : Request for Certificate of Correction for Appl. No.: 11753502 Patent No.: 7685338

CofC mailroom date:
12/03/10

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

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You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Mano Padmanabhan 2182

for

TARIQ HAFIZ.

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

JONATHAN P. O'BRIEN, PH.D.
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SCHWARTZ AND COHN LLP
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Kalamazoo MI 49007-3800

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Bannen et al. :
Application No. 11/753,514 : ON APPLICATION FOR
Filed: May 24, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 224990/04-064C3:
-US/127533 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d) filed September 30, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand one hundred forty-four (1144) days, not six hundred twelve (612) 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. With respect to the calculation of B delay, applicant further states that the time consumed by continued examination should be limited to the period beginning on the date of filing of the request for continued examination (RCE) and ending on the subsequent date of the mailing of the notice of allowance in response.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee

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

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

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

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

The Office 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).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FEB 06 2012

OFFICE OF PETITIONS

In re Patent No. 8,067,436	:
Bannen et al.	: DECISION ON REQUEST FOR
Issue Date: November 29, 2011	: RECONSIDERATION OF
Application No. 11/753,514	: PATENT TERM ADJUSTMENT
Filed: May 24, 2007	:
Attorney Docket No. 224990/04-064C3-US/127533	:

This is a decision on the petition filed on January 27, 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 one thousand two hundred one (1201) days, or in the alternative, by one thousand one hundred ninety-three (1193) days.

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

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

BACKGROUND

On November 29, 2011, the above-identified application matured into U.S. Patent No. 8,067,436, with a revised patent term adjustment of 949 days. On January 27, 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 1201, or 1193 days.

Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office's interpretation of 35 U.S.C. is flawed. Patentee further argues that

> When properly construed, if the Patent Office fails to meet the 3 year requirement of 35 U.S.C. § 154(b) and 37 C.F.R. §1.702(b), the applicant is entitled to the full remedy afforded by 35 U.S.C. §154(b)(1)(B), which states '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,' with specific limitations set forth in 35 U.S.C. §154(b)(2).

Patentee further argues that:

> None of these specific limitations [set forth in 35 U.S.C. 154(b)(2)] affect the PTA calculation on the basis of time consumed by examination after filing an RCE.

In the alternative, patentee argues that the time consumed by continued examination is limited to the number of days in the period beginning on the date on which a request for continued examination of the application was filed and ending on the date of the mailing of the notice of allowance. Based on a filing of the RCE on June 23, 2011, and mailing of the Notice of Allowance on July 1, 2011, patentee argues entitlement to 546 days of B delay.

OPINION

Patentee's arguments have been considered, but not found persuasive. First, the limitation set forth in §154(b)(2) does not affect the PTA calculation on the basis of time consumed by examination after the filing an RCE. That is, the Office's directive not to include in the "B" delay any time consumed by continued examination under 132(b) is not a limitation set forth in 154(b)(2). Rather, the non-inclusion of time consumed by the filing of a RCE in the calculation of "B" delay is the subject of 35 U.S.C. 154(b)(1)(B)(i). Specifically, 35 U.S.C. 154(b)(1)(B)(i) provides that:

> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of

the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

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

… , 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 plain language of this provision of the statute provides for not including "any time consumed by a request for continued examination" in the Office delay for failing to issue a patent within three years after the actual filing date of the application. Thus, any time consumed by a request for continued examination is properly not included in "B" delay.

Further, the excluded period begins on the date of filing of the request for continued examination. 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.

In this instance, the Office calculated the period of "B delay" as 394 days pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) based on the application being filed under 35 U.S.C. 111(a)[1] on May 24, 2007, and the patent not having issued as of the day after the three year date, May 25, 2010, and a request for continued examination under 132(b) having been filed on June 23, 2011. In other words, the entire 160-day period from the date of filing of the request for continued examination, June 23, 2011 to the date of issuance of the patent on November 29, 2011 was not included in the "B delay."

[1] According to the Official record of the application, the application is not as stated by patentees an application filed under 35 U.S.C. 371 which fulfilled the requirements of 371(c) on May 24, 2007.

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[2]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

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

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[2] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

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 request for continued examination was filed on June 23, 2011, and the patent issued by virtue of that request on November 29, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 23, 2011 and ending on November 29, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, the patent term adjustment in the above-identified patent remains 949 days.

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

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

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

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
David Kujda, et al. :
Application No. 11/753,527 : DECISION ON PETITION
Filed: May 24, 2007 :
Attorney Docket No. 50269-1221 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $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 2173 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 22 2011

OFFICE OF PETITIONS

AMYRIS BIOTECHNOLOGIES, INC.
Suite 100
5885 Hollis Street
Emeryville CA 94608

In re Patent No. 7,854,774 : DECISION ON APPLICATION FOR
Issued: December 21, 2010 : PATENT TERM ADJUSTMENT
Application No. 11/753,586 :
Filing or 371(c) Date: May 25, 2007 :
Dkt. No.: 11836-007-999 :

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on December 16, 2010 requesting a decrease in patent term adjustment from 608 days to 661 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,854,774 on December 21, 2010. The patent issued with a patent term adjustment of 608 days. The instant application for patent term adjustment was timely filed December 16, 2010.

Patentees dispute the 157 days accorded pursuant to 37 CFR 1.703(b) and assert that the correct period of adjustment in this regard is 210 days.

Patentees' arguments have been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of adjustment under 37 CFR 1.703(b). 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 53 days, beginning on September 7, 2010, the date of filing of the notice of appeal and ending on October 29, 2010, the subsequent date of the mailing of a notice of allowance. Thus, the period of adjustment for the Office's failure to issue the patent within three years of the application filing date is 157 days (210 days – 53 days).

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

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

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of :
Hayashi et al. :
Application No. 11/753,712 : DECISION ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. 01272.133832. :

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 14, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 14, 2010. Accordingly, the date of abandonment of this application is September 15, 2010. A Notice of Abandonment was mailed October 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 payment of the issue fee of $1,510.00 and the publication fee of $300.00 (previously paid on September 21, 2010), (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SAN FRANCISCO CA 94111-3834

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JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Stephens et al.	:	DECISION ON PETITION
Application No. 11/753,725	:	TO WITHDRAW
Filed: May 25, 2007	:	FROM RECORD
Attorney Docket No. 028240-000110US	:	

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 8, 2011.

The request is **APPROVED**.

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

The request was signed by David A. Hall on behalf of all attorneys/agents of record who are associated with Customer Number 20350. All attorneys/agents associated with Customer Number 20350 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee, Custom Sensors & Technology, at the address indicated below.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: CUSTOM SENSORS & TECHNOLOGY
7230 HOLLISTER AVENUE
GOLETA CA 93117

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLOTTE NC 28280-4000

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OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Pyhalammi et al.	:	DECISION ON PETITION
Application No. 11/753,786	:	TO WITHDRAW
Filed: May 25, 2007	:	FROM RECORD
Attorney Docket No. 042933/329195	:	

This is a decision on the second Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 11, 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 Cory C. David on behalf of all attorneys/agents of record who are associated with Customer Number 00826. All attorneys/agents associated with Customer Number 00826 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee, Nokia Corporation, 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: NOKIA CORPORATION
KEILALAHDENTIE 4
ESPOO FIN-0-2150 FINLAND

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOV 29 2011
OFFICE OF PETITIONS

Diaz and Associates
4100 W. El Dorado Parkway, Suite 100 # 432
McKinney TX 75070

In re Application of :
FARRIS, KIRSTEN :
Application No. 11/753,825 : ON PETITION
Filed: 05/25/2007 :
Attorney Docket No. 5205-0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2011, to revive the application.

The petition is **GRANTED**.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 31, 2009, which set a three-month shortened statutory period for response. No extensions of time for response were obtained pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on November 1, 2009. A Notice of Abandonment was mailed on March 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that applicant has supplied (1) the reply in the form of an amendment which places that application in condition for allowance; (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3643 for appropriate action by the Examiner on the amendment filed October 5, 2011.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Patent No.7,995,055 :
Ma, et al. : DECISION FOR REQUEST
Issue Date: August 9, 2011 : FOR RECONSIDERATION
Application No.11/753,859 : OF PATENT TERM
Filed: May 25, 2007 : ADJUSTMENT
Attorney Docket No.16113-0221001/ :
GP-982-00US :

This is a decision on the "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed October 10, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from five hundred and sixty-three (563) days, to six hundred and sixty-one (661) days.

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

On August 9, 2011, the above-identified application matured into U.S. Patent No. 7,995,055, with a revised patent term of 563 days. By the instant petition, patentees assert that the patent term should be adjusted by 239 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). Patentees state:

> Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Requests for Continued Examination was filed on October 14, 2010, and February 25, 2011. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on May 4, 2011, thereby closing examination of the application on that date. Thus, no continued examination took place during 98 day period from May 4, 2011 (the mailing date of the Notice of Allowance)

> until August 9, 2011(the date the patent was issued). Accordingly, 98 days for "B Delay" should have been included in addition to the 141 days accorded by the Director for a total B Delay of 239 days.

Excerpt taken from "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed October 10, 2011, p.2.

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.

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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.

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

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

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

that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

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

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

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the

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

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

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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.

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

[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.

37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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

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

In this instance, a request for continued examination was filed on October 14, 2010, and the patent issued by virtue of that request on August 9, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on October 14, 2010, and ending on August 9, 2011, is not included in calculating Office delay.

In view thereof, it is concluded that the patent term adjustment of 563 days indicated on the patent is correct.

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

Court for the District of Columbia within 180 days after the grant of the patent.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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10001 RICHMOND AVENUE
IP ADMINISTRATION CENTER OF EXCELLENCE
HOUSTON TX 77042

MAILED
OCT 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Dubost et al.	:	
Application No. 11/753,863	:	DECISION ON PETITION
Filed: May 25, 2007	:	
Attorney Docket No. 122.0001 US NP	:	

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

The petition is **DISMISSED**.

The petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record 9f the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42.1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

Currently, no records are found under the name Brigid Laffey in the U.S. Patent and Trademark Office (USPTO) database. In the instant petition, Brigid Laffey also gives a registration number that is not associated with her name.

Further, 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
P. O. Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-8300
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: Brigid Laffey
Schlumberger Doll Research
One Hampshire Street
Cambridge, MA 02139

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OFFICE OF PETITIONS

In re Application of	:	
Dubost et al.	:	
Application No. 11/753,863	:	DECISION ON PETITION
Filed: May 25, 2007	:	
Attorney Docket No. 122.0001 US NP	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, March 31, 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 timely obtained. Accordingly, the application became abandoned on July 1, 2011. A Notice of Abandonment was mailed October 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper After-Final Amendment (filed October 10, 2011 and the supplemental amendment filed October 21, 2011), (2) the petition fee of $1,860.00 (previously submitted October 10, 2011), and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,270.00, three- month extension of time fee submitted on October 10, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 3674 for processing of the After-Final Amendment filed October 10, 2011 and the supplemental amendment filed October 21, 2011.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Bridget Laffey
Schlumberger Doll Research
One Hampshire Street
Cambridge, MA 02139

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	11753890
Filing Date	25-May-2007
First Named Inventor	Fujian Qu
Art Unit	3766
Examiner Name	TAMMIE HELLER
Attorney Docket Number	A07P3021
Title	VENTRICULAR DEFIBRILLATION THRESHOLD ESTIMATION

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	/Steven M. Mitchell/
Name	Steven M. Mitchell
Registration Number	31857

UNITED STATES 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 : September 1,2011

In re Application of :

Fujian Qu

Application No : 11753890

Filed : 25-May-2007

Attorney Docket No : A07P3021

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed September 1,2011 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
MAR 28 2012
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Venkatraman et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 11/753,896	:	
Filed: May 25, 2007	:	
Attorney Docket No. AMRNNZ00101	:	

This is a decision on the PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. § 120 filed March 13, 2012 (and resubmitted with new amendment on March 21, 2012), to accept an unintentionally delayed claim to prior-filed application number 10/867,617.

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), and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

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

The instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for priority set forth on petition was not submitted on filing in

the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR §§ 1.78(a)(2)(ii) expired without proper claims being made. In addition, the petition includes the required statement of unintentional delay and the required surcharge.

A reference to the prior-filed nonprovisional application is included in an amendment, as required by 37 CFR 1.78(a)(2)(iii), filed March 21, 2012. (The amendment filed March 13, 2012 referred to the earlier-filed application as a provisional. The amendment filed March 21, 2012 corrected this.)

On March 13, 2012, petitioner filed a request for continued examination (RCE), which is properly submitted for consideration of the amendment after mailing of a final Office action.

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

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

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

This application is being referred to Technology Center Art Unit 1637 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §120 of the prior-filed applications as set forth in the amendment filed March 21, 2012.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/753,896	05/25/2007	1646	490	AMRNNZ00101	15	2

CONFIRMATION NO. 6374

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

CORRECTED FILING RECEIPT

OC000000053338550

Date Mailed: 03/26/2012

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)

Subramanian VENKATRAMAN, Singapore, SINGAPORE;
Yin Chiang BOEY, Singapore, SINGAPORE;

Assignment For Published Patent Application

Nanyang Technological University, Singapore, SINGAPORE

Power of Attorney: The patent practitioners associated with Customer Number 40518

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/808,558 05/26/2006
and is a CIP of 10/867,617 06/15/2004 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: 07/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/753,896**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

IMPLANTABLE ARTICLE, METHOD OF FORMING SAME AND METHOD FOR REDUCING THROMBOGENICITY

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Sughrue Mion-ABBOTT LABS
2100 Pennsylvania Avenue, N.W.
Washington DC 20037

MAILED

DEC 23 2010

OFFICE OF PETITIONS

In re Application of :
Paul Gilson et al. :
Application No. 11/753,928 : DECISION ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. A9623 :

This is a decision on the petition to expunge information, filed October 14, 2010, which is being treated as a petition under 37 CFR 1.59(b), to expunge information from the above identified application.

The petition is **Dismissed.**

Petitioner requests that the amendment, filed October 8, 2010 be expunged from the record. Petitioner states that the information submitted was unintentionally filed in the instant application and was meant for another application. The petition fee set forth in 37 CFR 1.17(g) has been charged to petitioner's deposit account as authorized.

Although petitioner indicates the amendment was meant for another application, all identifiers on the amendment are for the above identified application.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

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

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/28/11

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 11753968 Patent No.: 7902080

CofC mailroom date: 04/15/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Nadine Norton/

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAW OFFICE OF
ROBERT E. KASODY
PROFESSIONAL CORPORATION
6601 CENTER DRIVE WEST
SUITE #500
LOS ANGELES, CA 90045

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of
Joseph F. SCALISI, et al
Application No. 11/753,979
Filed: May 25, 2007
Attorney Docket No. LBTECH.004CP2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 6, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of an assignee of the entire interest who properly became of record under 37 CFR 3.71 or the first named inventor.

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.

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

Cc: LOCATION BASED TECHNOLOGIES, INC.
38 DISCOVERY, SUITE 150
IRVINE, CA 92618

UNITED STATES PATENT AND TRADEMARK OFFICE

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UDAYAN KANADE
15-1 SHARMAN, SAHAJANAND HSG SOC
KOTHRUD
UNE 41103-8 IN INDIA

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Kanade et al.	:	
Application No. 11/753,991	:	ON PETITION
Filed: May 25, 2007	:	
Attorney Docket No. 18063-4004	:	

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment under 37 CFR 1.312, which includes an amendment to the specification, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; 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) 272-3206.

This matter is being referred to Technology Center AU 2875 for consideration of the amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: I2IC CORPORATION
776 CORONADO LN
FOSTER CITY, CA 94404

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of	:	
Anant Agarwal, et al.	:	
Application No. 11/754,016	:	DECISION GRANTING PETITION
Filed: May 25, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 19731-023001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 30, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2187 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of
Anant Agarwal et al
Application No. 11/754,062
Filed: March 25, 2007
Attorney Docket No. 19731-021001

ON PETITION

This is a decision on the petition, filed August 30, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 2, 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 2187 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-23-11 Paper No.: _____

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/754,109 Patent No.: 7980123

CofC mailroom date: 8-17-11

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

FOR IFW FILES: Check Drawings

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

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

FOR PAPER FILES:

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

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

Ennis 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.

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

Comments: _____

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_____

_____ 2855
SPE **Art Unit**

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MINNEAPOLIS, MN 55440-1022

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AUG 06 2010

OFFICE OF PETITIONS

In re Application of :
Anant AGARWAL, et *al.* :
Application No. 11/754,118 : DECISION GRANTING PETITION
Filed: May 25, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **19731-018001** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 5, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2187 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,126	05/25/2007	Geoffrey B. Rhoads	098888-1993	6802

99103 7590 11/16/2011

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

EXAMINER	
EISNER, RONALD	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
11/16/2011	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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150 EAST GILMAN STREET
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MADISON WI 53701-1497

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NOV 15 2011

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
RHOADS, GEOFFREY B., et al.
Application No. 11/754,126
Filed: May 25, 2007
For: **GESTURAL TECHNIQUES WITH WIRELESS MOBILE PHONE DEVICES**

Decision on Petition

This is a decision on the request filed April 26, 2010, treated as a petition under 37 C.F.R. §1.181.

The April 26, 2010 petition requests to withdraw the finality of the Office Action dated April 15, 2010. The request is based on the grounds that a change in reasoning for the rejection of claim 10 was made which amounts to a new ground of rejection not necessitated by amendment.

The petition is **DISMISSED AS MOOT**.

A review of the file finds that a non-final rejection was subsequently made on November 12, 2010 and eventually followed by an RCE filed on September 14, 2011. As a result, the application is no longer under final rejection. Application has been forwarded to the examiner for action on the RCE application.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Shin et al. :
Application No. 11/754,137 : DECISION ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. P06817 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 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 10, 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 11, 2010. A Notice of Abandonment was mailed June 15, 2010.

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

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

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

This application is being referred to Technology Center AU 2838 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 7,984,068
Issued: July 19, 2011
Application No. 11/754,146
Filed: May 25, 2007
Attorney Docket No. 16113-0428001

: 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 September 19, 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 112 to 236 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On July 19, 2011, the above-identified application matured into U.S. Patent No. 7,984,068, with a revised patent term adjustment of 112 days. On September 19, 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 236. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on March 18, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 124 day period from March 18, 2011 (the mailing date of the Notice of Allowance) until July 19, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 124 days and be increased from 68 to 192 days. Patentee concludes that the correct patent term adjustment is 236 days (the sum of 293 days of "A delay" and 192 days of "B delay" minus 249 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 68 days based on the application having been filed under 35 U.S.C.

111(a) on May 25, 2007 and the patent not having issued as of the day after the three year date, May 25, 2010, and a request for continued examination under 132(b) having been filed on August 2, 2010. In other words, the 124-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

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

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

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

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

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

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

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

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

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

delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

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

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

entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

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

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

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

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years

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

provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on August 2, 2010, and the patent issued by virtue of that request on July 19, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 2, 2010 and ending on July 19, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 112 days indicated on the patent is correct.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,984,068
Issued: July 19, 2011
Application No. 11/754,146
Filed: May 25, 2007
Attorney Docket No. 16113-0428001

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration filed November 22, 2011, pursuant to 37 CFR §1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected from 112 to 236 days.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

The patent term adjustment indicated in the previous decision mailed September 22, 2011 is properly indicated.

Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on March 18, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 124 day period from March 18, 2011 (the mailing date of the Notice of Allowance) until July 19, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 124 days and be increased from 68 to 192 days.

RELEVANT STATUTE AND REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

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

OPINION

Applicant's arguments have been considered.

The 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 68 days based on the application having been filed under 35 U.S.C. 111(a) on May 25, 2007 and the patent not having issued as of the day after the three year date, May 25, 2010, and a request for continued examination under 132(b) having been filed on August 2, 2010. In other words, the 124-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C.

132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, 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.

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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.

18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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

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

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

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

actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

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

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

---

[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.

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

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

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

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

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

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

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

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

the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on August 2, 2010, and the patent issued by virtue of that request on July 19, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 2, 2010 and ending on July 19, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is DENIED.

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

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Casimir Jones, S.C.
2275 Deming Way, Suite 310
Madison WI 53562

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
Thomas A. Hall, et al. :
Application No. 11/754,163 : DECISION ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. DIBIS-0088US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 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, July 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 October 29, 2009. The Notice of Abandonment was mailed March 30, 2010.

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

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats.

1988). Since the $1,110 extension of time fee submitted with the petition on January 29, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1637 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110719

DATE : July 19, 2011

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction on Patent No.: 7,488,520

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

Changes are acceptable

/TULSIDAS C PATEL/
Supervisory Patent Examiner.Art Unit 2839

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/29/10

TO SPE OF : ART UNIT: 2839

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/754,224 Patent No. 7,488,520

CofC mailroom date 10/18/10

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

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.

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

Comments: The corrections are acceptable

/Tulsidas C. Patel/ 2839

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,253	05/25/2007	Udayan Kanade	18063-4006	7054

97909 7590 06/02/2011

Udayan Kanade
15-1 Sharman, Sahajanand Hsg Soc
Kothrud
une, 411038
INDIA

EXAMINER	
LEE, DIANE I	

ART UNIT	PAPER NUMBER
2875	

MAIL DATE	DELIVERY MODE
06/02/2011	PAPER

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

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

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Udayan Kanade
15-1 Sharman, Sahajanand Hsg Soc
Kothrud
une, INDIA 411038

In re Application of	:	
KANADE ET AL.	:	*SUA SPONTE*
Appl. No.: 11/754,253	:	DECISION WITHDRAWING HOLDING OF
Filed: May 25, 2007	:	ABANDOMENT
Attorney Docket No.: **18063.4006**	:	

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

The application was held abandoned for failure to timely respond to the Office action mailed on October 20, 2010. A Notice of Abandonment was mailed on May 24, 2011.

A review of the record indicates that the application is under appeal and the maximum period for filing an Appeal Brief expires on June 14, 2011. Accordingly, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

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

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

Any inquiries regarding this decision should be directed to Diane Lee at (571) 272-2399.

Joseph Thomas
Director
Patent Examining Technology Center 2800

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

MAILED

SEP 20 2011

OFFICE OF PETITIONS

In re Application of :
Ching-Wei Chang :
Application No. 11/754,260 : DECISION ON PETITION
Deposited: May 25, 2007 :
Attorney Docket No. 8371-0223 :

This is a decision on the Petition for Expungement of Document From Image File Wrapper, filed August 23, 2011, which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the Amendment After Final, filed on August 22, 2011, be expunged from the record. Petitioner indicates this amendment pertained to the wrong application. Review of the amendment shows all identifiers match the instant application.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

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

Carl Friedman
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,275	05/26/2007	David D. Farris	213899-04	7124

25101 7590 01/03/2012

Philip D. Freedman PC
1449 Drake Lane
Lancaster, PA 17601

EXAMINER	
MOORE, MARGARET G	
ART UNIT	PAPER NUMBER
1765	
MAIL DATE	DELIVERY MODE
01/03/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

wk

Mailed: 1/3/12

In re application of :
Farris et al. : DECISION ON
Serial No. 11/754,275 : PETITION
Filed: May 26, 2007 :
For: **SELECTIVE HYDROSILYLATION RHODIUM CATALYST METHOD AND PRODUCT**

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on November 13, 2011 to withdraw the Finality of the Office Action mailed July 14, 2011. The Examiner issued two Advisory Actions on September 8 and September 27th.

Applicant asserts that the July 14, 2011 final rejection repeated the 35 USC 103(a) rejection over Kennedy and Crivello but did not address Applicants no prima facie argument. Applicant asserts that the final rejection and Advisory actions have never pointed out in the references any purported teaching of the claimed sequential steps of (1) "reacting a dihydridosiloxane..... and not a second step of (2) "hydrosilylating the monohydriosiloxane...."

A review of the record indicates that the Examiner established a position that the entire teachings of both references were relied upon in the rejection. The Examiner referred Applicants to working examples in Crivello, which examples show the hydrosilylations of a monhydridosiloxane. The Examiner did note that no single reference shows the hydrosilylation of a monohydridosiloxane, and further it was the Examiners position that it was the totality of the prior art teachings which renders obvious the claimed second step.

Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The Final Office action did not introduce a new ground for rejection. The Finality was proper.

Under 37 CFR 41.31(a) (1), an applicant for a patent dissatisfied with the primary examiner's decision in the second rejection of his or her claims may appeal to the Board for review of the

examiner's rejection by filing a notice of appeal and the required fee set forth in 37 CFR 41.20(b) (1) within the time period provided under 37 CFR 1.134 and 1.136.

DECISION

The petition is **DENIED**.

The period for response continues to run from the mail date of the final rejection (July 14, 2011).

/Yvonne Eyler/
Director, Technology Center 1700
Chemical and Materials Engineering

Philip D. Freedman PC
1449 Drake Lane
Lancaster PA 17601

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1-10-11**

TO SPE OF : ART UNIT **2454**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11754354** Patent No.: **7809785**

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: _____

_____

_____

_____

_____

/Joseph E. Avellino/ **SPE** — **2454** **Art Unit**

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,830,924	:	
Issue Date: November 9, 2010	:	
Application No. 11/754,425	:	ON PETITION
Filed: May 29, 2007	:	
Attorney Docket No. 520.47548X00	:	

This is a decision on the petition filed April 6, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,915,999	:	DECISION ON REQUEST
Rofougaran et al.	:	FOR RECONSIDERATION OF
Issue Date: March 29, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/754,438	:	
Filed: May 29, 2007	:	
Atty Docket No. 18591US02	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 C.F.R. § 1.705(d))" filed May 25, 2011. Patentees request that the Patent Term Adjustment indicated on the face of the patent be corrected from six hundred seventy-nine (679) days to seven hundred fifty-two (752) days.

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

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On March 29, 2011, the above-identified application matured into U.S. Patent No. 7,915,999. The instant request for reconsideration filed May 25, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 679 days. Patentee maintain that the period of adjustment for the Office taking in excess of three years to issue the patent should be 304 days - 54 days consumed by an appeal, or 250 days. Further, patentee maintains that the reduction, pursuant to 37 CFR 1.704(c)(10), for the filing of an amendment after the mailing

of the notice of allowance is properly calculated as 13 days, not 14 days.

Patentees' arguments have been considered, but not found persuasive. The B delay period is properly calculated as 178 days. The period excluded for any time consumed by the filing of a request for continued examination begins on the date of filing of the RCE and ends on the date of issuance of the patent. This is consistent with the period excluded for any time consumed by appellate review as likewise such period begins on the date of filing of the notice of appeal. Patentees' statement that the date of filing of the notice of appeal is day 0 is incorrect.

Moreover, the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is (126) days, beginning on July 28, 2010, the date of filing of the notice of appeal and ending on November 30, 2010, the subsequent date of the mailing of a Notice of Allowance. The time consumed by appellate review does not, as argued by patentee, end on the date of the Notice of Panel Decision from Pre-Appeal Brief Review, but rather ends on the actual date of mailing of the new Office action. Accordingly, it is concluded that the B delay was properly entered as 178 (304 - 126) days.

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

The reduction for the filing of an amendment on February 15, 2011 after the mailing of the notice of allowance on November 30, 2010 is correct. 37 CFR 1.704(c)(10) provides that the filing of papers after the mailing of the notice of allowance constitutes a failure to engage in reasonable efforts to conclude prosecution (processing or examination). It is undisputed that an amendment was filed after the mailing of the notice of allowance. 37 CFR 1.704(c)(10) does not exempt papers filed at the request of the examiner or other components of the Office. Further, filing of amendment after the mailing of the notice of allowance is a circumstance that the Director has specifically deemed to cause substantial interference and delay in the patent issue process for which entry of a reduction is warranted. 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*, 1247 OG 111 (June 26, 2001). Moreover, the period is properly calculated beginning on the date of filing of the amendment, February 15, 2011 and ending on the date of the Office's response, February 28, 2011.

Entry of the reduction of 14 days for applicant delay is warranted and will not be removed.

In view thereof, the patent term adjustment indicated on the patent of (679) days is correct.

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

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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Barsheshet, Michael	:	DECISION ON PETITION
Application No. 11/754,439	:	TO WITHDRAW
Filed: May 29, 2007	:	FROM RECORD
Attorney Docket No. P09237US01/RFH	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2010.

The request is **APPROVED**.

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

The request was signed by Douglas E. Jackson on behalf of all attorneys/agents of record who are associated with Customer Number 00881. All attorneys/agents associated with Customer Number 00881 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 Barsheshet, 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: MICHAEL BARSHESHET
8 NETIV HA'LAMED HEY
REHOVOT 76223 IL ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,456	05/29/2007	Jeffrey G. Holloway	TI-61271	7449

23494 7590 02/21/2012
TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

EXAMINER	
DOAN, NGA	

ART UNIT	PAPER NUMBER
2813	

NOTIFICATION DATE	DELIVERY MODE
02/21/2012	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):

uspto@ti.com

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

In re Application of
Holloway, Jeffrey et al.
Application No.: 11/754456
Filed: May 29, 2007
Attorney Docket No.: TI-61271

DECISION ON PETITION
UNDER 37 CFR § 1.127

This is a decision on the petition filed on July 6, 2011, under 37 CFR § 1.127, requesting reconsideration of the Notice of Non-Compliance mailed on June 6, 2011 and entry of the amendment filed March 25, 2011.

Petitioner asserts that the claims presented in the amendment filed March 25, 2011 do read on the species elected in the Response to Election/Restriction filed 3/19/2010. Petitioner asserts that the Election of Species mailed 2/19/2010 did not limit the species to the specific embodiments shown in the figure, but instead merely pointed to the characteristics identified in claims 2-6. Petitioner argues that the claims presented on March 25, 2011, while drawn to the embodiment shown in Figures 4A-4E, do read on the elected species since Species IV set forth by the Examiner, and elected by Applicant, merely requires:

> "*A semiconductor device comprising a central portion and a peripheral portion being electrically connected.*"

Petitioner further argues that the central portion of the device shown in Figure 4D would be connected to the peripheral portion through the bumps 12 and the die 11.

A review of application and the prosecution history indicates that the claims presented in the amendment filed March 25, 2011 do read on Species IV as presented by the Examiner. Since the Election of Species did not point the specification or drawings to identify the species, any discussion as to which figure the claims read on is moot. The newly presented claims do not require that the central portion and the peripheral portion are electrically connected, but nor do they require that the two portions are electrically isolated. Therefore, the claims are at least generic and should have been considered by the Examiner. Additionally, it was determined that

the Election of Species requirement was improper. It is initially noted that MPEP 806.04(e) states:

> *"Claims are definitions or descriptions of inventions. Claims themselves are never species. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim. Alternatively, a claim may encompass two or more of the disclosed embodiments (and thus be designated a generic or genus claim).*
> *Species always refer to the different embodiments of the invention."*

The Election of Species requirement merely pointed to dependent claim language of claims 2-4 as corresponding to Species I-IV. In accordance with MPEP 806.04(f), the identified species must be mutually exclusive. The species identified by the Examiner were not shown to be mutually exclusive. Also, no serious burden could have been established since the claims had already been examined, as evidenced by the Non-final Rejection mailed June 22, 2010.

For the above-stated reasons, the petition is **GRANTED**.

The application is being forwarded to the examiner for further action on the merits, including the examination of claims 11-20 filed on March 25, 2011 and the withdrawal of the Election of Species requirement.

Telephone inquiries should be directed to Matthew Landau, Supervisory Patent Examiner, at (571)-272-1731.

Jack Harvey, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/18/11

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11754462 Patent No.: 7897593

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 Directors/SPE response to 571-273-3421

Note: **Please check the Claims**

should these changes be made or not?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved** — **All** changes apply.

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

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

Comments: The last change should be as follows Column 107, line 26, change the second occurence of "-4'-" to -- -4'H --.

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
SPE
TECHNOLOGY CENTER 1600

1624

Art Unit

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

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FEB 07 2011

OFFICE OF PETITIONS

In re Application of :
FLORIN, et al :
Application No. 11/754,476 : DECISION ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 2006P12097US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2008, 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 June 20, 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 August 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees and a signed declaration; (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 the Office of Data Management for further pre-examination processing.

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

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C. JAMES BUSHMAN
5851 SAN FELIPE
SUITE 975
HOUSTON, TX 77057

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of
Andyle Gregory Bailey, et al.
Application No. 11/754,529
Filed: May 29, 2007
Attorney Docket No. V&M-3

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice Requiring Excess Claims Fees (Notice), mailed December 11, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 reply, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received December 22, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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ONE MICROSOFT WAY
REDMOND WA 98052

MAILED

AUG 30 2011

OFFICE OF PETITIONS

In re Application of :
Chris Demeterios Karkanias et al :
Application No. 11/754,543 : DECISION ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 318347.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed December 27, 2010, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2876 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of :
Eriko Ozaki :
Application No. 11/754,547 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. DATA REPRODUCING APPARATUS AND DATA REPRODUCING METHOD

This is a decision on the petition, filed February 11, 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 27, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2832 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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MAR 25 2011

OFFICE OF PETITIONS

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

In re Application of :
Rofougaran, et al. :
Application No. 11/754,600 : ON APPLICATION FOR
Filed: May 29, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 18581US02 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705), filed February 15, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred fourteen (914) days, not five hundred forty (540) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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

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

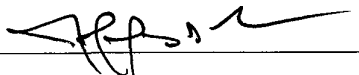
Attorney Docket Number: 102281.59069US	Patent Number: 7,657,637
Filing Date (or 371(b) or (f) Date): May 29, 2007	Issue Date: February 02, 2010
First Named Inventor: Takafumi NAKASE	
Title: A Client Server System for Transmitting Regular Connection Information Via Wireless Network to Client Based on Temporary Connection Information Received from Wired Network	

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

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

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

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

Signature 	Date August 2, 2010
Name (Print/Typed) Jeffrey D. Sanok	Registration Number 32,169

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

☒ *Total of -1- forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1 450.**

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

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

Mail Date: 09/14/2010

Applicant	: Takafumi NAKASE	: DECISION ON REQUEST FOR
Patent Number	: 7657637	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/754,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **430** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

June 28, 2011

Patent No. : 7,535,224 B2
Appl. No. : 11/754,660
Inventor(s) : Jian Zhi Hu, et al.
Issued : May 19, 2009
Title : **DISCRETE MAGIC ANGLE TURNING SYSTEM, APPARATUS, AND PROCESS FOR IN SITU MAGNETIC RESONANCE SPECTROSCOPY AND IMAGING**
Docket No. : **15387-E**

Re: Request for Certificate of Correction

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

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

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

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

The petition 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

(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

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

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

BATTELLE MEMORIAL INSTITUTE
ATTN: IP LEGAL SERVICES, K1-53
P.O. BOX 999
RICHLAND WA 99352

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **3-27-12**

TO SPE OF : ART UNIT **2435**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11754669** Patent No.: **8042149**

CofC mailroom date: 3-14-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-E
Palm Location 7580

Note:

Omega Lewis

703-756-1575

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Claim 5 is not approved because of inserting the feature of "in one of the queues" which changes the scope of the claim.

/Kimyen Vu/ — **SPE**

2435 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-27-12

TO SPE OF : ART UNIT 2435

SUBJECT : Request for Certificate of Correction for Appl. No.: 11754669 Patent No.: 8042149

CofC mailroom date: 3-14-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-E
Palm Location 7580

Note: _

Omega Lewis
703-756-1575

Thank You For Your Assistance

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

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

Comments: Claim 5 is not approved because of inserting the feature of "in one of the queues" which changes the scope of the claim.

/Kimyen Vu/ — **SPE**

2435 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Rofougaran et al.	:	
Application No. 11/754708	:	ON APPLICATION FOR
Filing or 371(c) Date: 05/29/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
18578US02	:	

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING NOTICE OF ALLOWANCE, filed December 6, 2010. Applicant asserts that the correct Patent Term Adjustment should be 891 days, not 601 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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DEC 06 2011

OFFICE OF PETITIONS

ANDREWS KURTH L.L.P.
600 TRAVIS, SUITE 4200
HOUSTON TX 77002

In re Application of	:	
L. Terry Boatman et al.	:	
Application No. 11/754,712	:	DECISION ON PETITION
Filed: May 29, 2007	:	
Attorney Docket No. SOF166	:	

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

The petition is **GRANTED**.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $930, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,270 extension of time fee submitted with the petition on November 18, 2011 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 3784 for appropriate action by the Examiner in the normal course of business on the reply received November 18, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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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PARK LAW FIRM
3255 WILSHIRE BLVD
SUITE 1110
LOS ANGELES CA 90010

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Jun Ho KIM	:	
Application No. 11/754,778	:	DECISION ON PETITION
Filed: May 29, 2007	:	
Attorney Docket No. 1328.042	:	

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

The petition is **GRANTED.**

The application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowability, mailed August 30, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $755 and Publication Fee of $300; (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 processing into a patent.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/26/11

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 11754804 Patent No.: 7449963

CofC mailroom date: 10/21/11

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 Directors/SPE response to 571-273-3421

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☑ **Approved** — **All** changes apply.

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

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

Comments: _____

_____

_____

_____

_____

2817

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BERENBAUM WEINSHIENK PC
370 17TH STREET
SUITE 4800
DENVER CO 80202

MAILED
OCT 27 2010
PCT LEGAL ADMINISTRATION

In re Application of :
GONZALES, et al. :
Application No. 11/754,917 : DECISION ON PETITION
Filed: May 29, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14455.897US01 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 06 August 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition.

The renewed petition is **GRANTED**.

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

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in

that (1) a reference to the prior-filed international application has been included in an amendment 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 and 365 (c) to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed 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 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 international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. 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 1623 for appropriate action on the amendment filed 06 August 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365 (c) to the prior-filed international application.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/754,928	05/29/2007	Curtis A. Birnbach	2729	8237

7617 7590 11/18/2010

BRUZGA & ASSOCIATES
11 BROADWAY, SUITE 715
NEW YORK, NY 10004

EXAMINER
MONDT, JOHANNES P

ART UNIT	PAPER NUMBER
3663	

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):

cbruzga@baiplaw.com
tsugawara@baiplaw.com
asmith@baiplaw.com

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 17 2010

BRUZGA & ASSOCIATES
11 BROADWAY, SUITE 715
NEW YORK NY 10004

In re Application of	:	
Curtis BIRNBACH	:	
Application No. 11/754,928	:	DECISION ON PETITION
Filed: May 29, 2007	:	TO WITHDRAW
For: METHOD AND SYSTEM FOR	:	RESTRICTION REQUIREMENT
CONTROL FUSION REACTIONS	:	UNDER 37 CFR 1.181

This is in response to applicant's petition under 37 CFR 1.181 filed September 7, 2010 requesting that the restriction requirement made on February 18, 2010 be withdrawn and to vacate the final rejection mailed on July 7, 2010.

The petition is **GRANTED.**

Applicant's petition alleges that the second restriction requirement made on February 18, 2010 was improper because the invention defined in claims 23-24 and 29 are not distinct from the invention defined in claims 1, 3-11, 13-16, 18-22, 28, 33 and 34; and that there is no serious burden of search. Applicant argues that the examiner's rationale for restriction that "the system as claimed can be used in a method that is materially different from the claimed method by supplying an asynchronous X-ray pulse" is erroneous because it ignores the statutory mandate for construction of a means plus function element. Applicant contends that the examiner applied an incorrect legal standard for means plus function claim language in claim 1.

A review of the file shows that in the non-final Office action mailed on May 27, 2009 a first restriction requirement was applied to original claims 1-32 in which claims 1-29, drawn to a system for and method of extracting, were elected without traverse by telephone for examination and claims 30-32, drawn to a drift tube, were withdrawn as being drawn to a non-elected invention. Claims 1-29 were then examined in the Office actions of May 27, 2009 as evidenced in the rejections under 35 USC 112, first paragraph and second paragraph; 35 USC 101; and art rejection.

Applicant filed an amendment on November 27, 2009 responding to the Office action of May 27, 2009. Applicant amended the apparatus claims 1, 3-11, 13-16, and 18-22 such that the scope of the claims was changed to a fusion reactor; claims 25-28 were amended with additional

limitations; and method claims 23-24 and 29 were also amended with additional limitations. Lastly, new claims 33-34 were added.

Applicant then filed a supplemental amendment on February 4, 2010 which amended the claims further.

An Office action was mailed on February 18, 2010 in which the examiner denied entry of the supplemental amendment, and issued a second restriction requiring a provisional election between Group I of claims 1, 3-11, 13-16, 18-22, 28, 33 and 34 drawn to a fusion reactor; and Group II of claims 23-24 and 29 drawn to a method of extracting energy from fusion reactions. Claims 25-26 will be examined regardless. Previous withdrawn claims 30-32 remain withdrawn. Applicant elected Group I of claims 1, 3-11, 13-16, 18-22, 28, 33 and 34 with traverse in a response filed on April 19, 2010. In addition, applicant also filed an amendment to the claims. The examiner maintained the restriction requirement in the final Office action mailed on July 7, 2010 and withdrew claims 23-24, and 29 as being drawn to a non-elected invention. Previous withdrawn claims 30-32 remain withdrawn. Applicant timely filed a petition on September 7, 2010 to withdraw the second restriction requirement and to vacate the final Office action.

A close review of the claims filed on April 19, 2010 shows that Group I claims and Group II claims have been rewritten to recite the same features such as a central target chamber, six energy drivers arranged around the exterior of the target chamber to supply synchronous X-ray pulse energy in a 3-dimensionally symmetric manner about a spherical pellet of the fusion target material in the chamber to initiate a controlled fusion reaction, (means for) controlling the energy drivers so that they synchronously supply X-ray energy exclusively in pulse form to said fusion target material, a plurality of means for extracting energy from the inertial confinement fusion reaction products including means to extract high voltage DC power from the fusion plasma and means to extract thermal energy from the central target chamber. A side-by-side comparison of claims 1 and claim 23 on page 2 of applicant's petition showed substantially the same claim language in both claims. A close review of claim 24 shows it has the same features as claim 4. Claim 29 has the same features as claim 28.

MPEP § 803 states that " If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

The examiner's treatment of the means plus function claim language "means for controlling the energy drivers so that they synchronously supply X-ray energy exclusively in pulse form to said fusion target material to initiate said controlled fusion reaction" is improper in that the functional language in the means plus function language should not be construed as an intended use. Furthermore, since both the apparatus and method claims specifically recite synchronous X-ray pulse, the examiner's rationales for restriction that "the system as claimed can be used in a method that is materially different from the claimed method by supplying an asynchronous X-ray pulse" is improper. It is unclear how using an asynchronous X-ray pulse in the system would meet the required limitation of synchronous X-ray pulse in the method claims. The examiner failed to provide adequate explanation on whether there is an apparatus that can perform both "synchronous X-ray pulse" as well as "asynchronous X-ray pulse" to support the rationales for

restriction. In addition, there would appear to be double patenting issues between system claim 1 and method claim 23. Restriction requirement may have been proper for the claims filed on November 27, 2009. However, since applicant have rewritten the claims in the response filed on April 19, 2010 such that the method claims 23-24 and 29 require all the limitations of the apparatus claims 1, 4 and 28; Group II claims are not distinct from Group I claims. A double patenting rejection would have to be made between Group I claims and Group II claims if restriction is maintained. As such, there is no serious burden on the examiner to examine claims of both groups. The restriction requirement dated February 18, 2010 cannot be maintained in view of the amendment filed on April 19, 2010. As a result, the finality of the Office action dated July 7, 2010 is improper and hereby withdrawn.

The application is returned to the examiner for an Office action on claims 1, 3-11, 13-16, 18-26, 28-29, 33 and 34 consistent with this decision.

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

Katherine Matecki

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

lm: 11/05/10
LM

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11 BROADWAY, SUITE 715
NEW YORK NY 10004

MAILED
FEB 09 2012
OFFICE OF PETITIONS

In re Application of :
Curtis A. Birnbach :
Application No. 11/754,928 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 2729 :

This is in response to the Petition Under 37 CFR 1.182, filed June 3, 2011. The petition requests expungement of various statements made by the examiner. The petition is being treated as one filed under 37 CFR 1.59(a) to expunge information from the above identified application.

Petitions filed under 37 CFR 1.182 are for situations not specifically provided for in the regulations. However, expungement, which petitioner is requesting, is specifically addressed via petitions under 37 CFR 1.59.

Under consideration in this decision is the petition for expungement which is being treated as a petition under 37 CFR 1.59 requesting that certain statements made by the examiner in the Office actions of July 7, 201 and January 12, 2011 be expunged from the record.

The petition under 37 CFR 1.59 is **dismissed**.

The instant petition indicates that the specified statements in the examiner's actions are unwarranted and unsupported and cast doubt on the validity and scope of the claims.

37 CFR 1.59 provides for the applicant's request for expungement of information in a patent application, other than the original papers upon which the filing date was granted. However, under the terms of the rule, petitioner "must ...establish to the satisfaction of the Director that the expungement of the information is appropriate..." See 37 CFR 1.59(b). Under the circumstances of this case, petitioner has not met his burden of proof.

The requested expungement of the contested Office communications would have the effect of vacating that action. However, the USPTO has long declined to vacate an Office action except in an instance where the examiner clearly lacked jurisdiction of the case at the time that the contested Office communication was issued. See Ex Parte Brunner, 1872 Dec. Comm'r Pat. 62,

63 (Comm'r Pat. 1872) (Commissioner vacating examiner's Office action which reopened prosecution as the examiner then lacked jurisdiction of the case). Merely because an applicant contends that a given action contains an improper rejection or requirement per se is not an adequate reason for deleting that action in its entirety from the administrative record, which the USPTO has long striven to maintain as complete and accurate as possible.

Indeed, expungement of portions of an Office communication would only be justified where that Office communication contained inappropriate statements that were not suitable for retention in the administrative record. Cf. 37 CFR 1.3, which requires that applicants must conduct their business with the USPTO with decorum and courtesy. Even where expungement is warranted for an Office communication, a redacted version is maintained in the file; only the offensive language is removed.

While petitioner may disagree with some of the content of the contested Office communications, the USPTO has also long held that a mere difference in opinion does not warrant expungement of part or all of a contested communication from the file record. See e.g., Ex Parte Fox, 1910 Dec. Commissioner Pat. 123 (Comm'r Pat. 1910). The MPEP makes clear that the expungement of record information should occur in very limited situations. See MPEP § 724.05. That particular section of the MPEP and referenced-sections (e.g., MPEP § 724.02) address the following types of information as subject (or susceptible) to possible expungement:

1) trade secret information;
2) proprietary information;
3) protective order material;
4) unintentionally-submitted information; and
5) information submitted in a wrong application.

The above situations are the only known types of circumstances which have led to information expungement. Clearly none of the above apply here. Petitioner has not alleged that the contested Office communications include any trade secret, are proprietary in nature, are subject to a protective order, or contain language that is inconsistent with the USPTO's own requirement for courtesy and decorum in the written record. It is also evident that the information was not wrongly submitted, and the examiner had jurisdiction of the case at the time the contested communications were issued.

Accordingly, no adequate basis is given or apparent for expunging the contested Office communication statements, and the USPTO sees no reason to exercise its discretion to deviate from, or expand upon, the above long-established reasons for expungement. See, e.g., Saxbe v. Bustos, 419 U.S. 65, 74 (1974) (acknowledging an agency's right to maintain a "longstanding administrative construction"). This is particularly so in this instance since as recognized by petitioner, consideration of issues pertaining to the merits of a given rejection will not be entertained on petition. See 37 CFR 1.181(a); see also Boundy v. U.S. Patent & Trademark

Office, 73 USPQ2d 1468 (DC Eva 2004),appeal dismissed, 2004 U.S. App. LEXIS 26384 (Fed. Cir. 2004). Likewise, the instant petition will not be expunged nor any amendment filed in response to the noted Office actions.

DECISION

For the reasons given above, the petition under 37 CFR 1.59 to expunge portions of the Office actions of July 7, 2010 and January 12, 2011 is dismissed.

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 06 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,767,180 :
Issue Date: August 3, 2010 :
Application No. 11/754,930 : DECISION ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. 308718US0 :

This is a decision on the Petition For Certificate Of Correction Under 37 CFR § 1.183, filed August 17, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Petition is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form was submitted with Petition.

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

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct 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 submitted with petition.

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,767,180.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
PO BOX 1247
SEATTLE WA 98111-1247

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Patent No. 8,023,116 :
Issue Date: 20 September, 2011 :
Application No. 11/754,963 : ON PETITION
Filed: 29 May, 2007 :
Attorney Docket No. 09062-8048.US02 :

This is a decision on the petition filed on 23 August, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioners also are reminded to chart out the fees paid/fees due/balance due in their submission(s) to the Office. (S*ee, generally*: 37 C.F.R. §1.27, §1.28, MPEP §509.02 and 509-03.)

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized**.

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

Patent No. 8,023,116
Application No. 11/754,963

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

The instant application is released to the IFW Files Repository in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

[2] 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

Paper No.

CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK CA 94025

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Anthony Rajakumar : DECISION ON PETITION
Application No. 11/754,974 :
Filed: May 29, 2007 :
Atty Docket No. PA5681US :

This is a decision on the PETITION UNDER 37 C.F.R. §1.78(a)(6) to accept an unintentionally delayed claim to prior-filed application No. 60/673,472, and the PETITION UNDER 37 C.F.R. §1.182 to expedite consideration of the petition under 37 CFR 1.78 both filed September 30, 2011.

The petition for expedited consideration includes payment of the petition fee under 1.182.

The petition for expedited consideration under § 1.182 is **GRANTED**. Accordingly, the petition under 37 CFR 1.78 is being considered out of turn.

The petition under §1.78(a)(6) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(6), must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, 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 instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for priority set forth on petition was not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR 1.78(a)(5)(ii) have expired. Thus, the instant petition is appropriate. In addition, the petition includes the required statement of unintentional delay and the required surcharge.

On petition, a reference to the prior-filed provisional application has been included in an amendment, as required by 37 CFR 1.78(a)(5)(iii). It has been determined that although this amendment is filed after the mailing of a notice of allowance (but before payment of the issue fee), no request for continued examination is required to grant this petition.

With respect to 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6), the claim for benefit of priority under 35 U.S.C. § 119(e) of provisional application no. 60/673,472 was made in intermediate application no. 11/404,342 filed April 14, 2006. The filing date of provisional application no. 60/673,472 for which priority is claimed is, April 21, 2005, which is within twelve months of the filing date of intermediate application No. 11/404,342.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed application 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 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 application, accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 2626 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § 119(e) of the prior-filed application as set forth in the amendment filed September 30, 2011.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/754,974	05/29/2007	2626	425	PA5681US	20	2

CONFIRMATION NO. 8345

22830
CARR & FERRELL LLP
120 CONSTITUTION DRIVE
MENLO PARK, CA 94025

CORRECTED FILING RECEIPT

Date Mailed: 10/11/2011

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)

Anthony Rajakumar, Menlo Park, CA;

Power of Attorney: The patent practitioners associated with Customer Number 22830

Domestic Priority data as claimed by applicant

This application is a CIP of 11/404,342 04/14/2006
and claims benefit of 60/808,892 05/30/2006
and claims benefit of 60/923,195 04/13/2007 ABN
and said 11/404,342 04/14/2006
claims benefit of 60/673,472 04/21/2005

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: 06/18/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/754,974**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

METHOD AND SYSTEM FOR SCREENING USING VOICE DATA AND METADATA

Preliminary Class

704

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Hideki Osaka et al	:	
Application No. 11/755,045	:	DECISION GRANTING PETITION
Filed: May 30, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 843.47542X00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RSW IP Law
IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK NC 27709

In re Application of
BOJJIREDDY, KARUNAKAR et al.
Application No.: 11/755,072
Filing or 371(c) Date: May 30, 2007
Attorney Docket Number: RSW920070149US1

: MAR 12 2012
: DECISION ON
: PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on March 7, 2012.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance mailed October 24, 2011 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on February 8, 2012.

Petitioner states that the issue fee transmittal and payment were timely filed with the USPTO stamped dated for January 23, 2012. Petitioner submitted a copy of the original submission which included a properly a deposit account authorizing the use of IBM deposit account by applicant's attorney, Yudell, Isidore, Ng & Russell under their old firm name Dillon & Yudell.

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

PUBS Routing Sheet

Application # 12/188624 Doc Code Date 3/9/2012

Date of Request 3/9/2012 Doc Code (if not listed)

☐ 892 List of References cited by Examiner	☐ ISSUE.WD.NTC Notice of Withdrawal from Issue	☐ PETDEC Petition Decision
☐ 1449 List of References cited by Applicant	☐ IIFW Issue Information	☐ PGEA.D PreGrant Publication Express Abandonment Dismissed
☐ ABN Abandonment	☐ IMIS Internal Miscellaneous Paper	☐ PGEA.G PreGrant Publication Express Abandonment Granted
☐ BIB Bibliographic Data Sheet	☐ LET. Miscellaneous Incoming Letter	☐ PGREF Request for Refund of Publication Fee Paid
☐ CDEN Request for Certificate of Correction Denied	☐ M327 Miscellaneous Communication to Applicant	☐ RUSH Printer Query Form
☐ CLM Claims	☐ M903 Notice of DO/MO Acceptance Mailed	☐ SPEC Specification
☐ COCIN Request for Certificate of Correction	☐ N271 Response to Amendment under Rule 312	☐ STAT.DISCLMR Statutory Disclaimers
☐ COCOUT Certificate of Correction	☐ N417 Status Letter Mailed to Applicant	☐ W/AC Withdrawal of previous action
☐ COCX SPE Response to Request for Certificate of Correction	☐ N427 Post Allowance Communication Transaction	☐ XRUSH Internal Response to Printer Query
☐ CTMS Miscellaneous Office Action	☐ N570 Accepted Change to Power of Attorney	
☐ IFEE Issue Fee Payment Record	☐ PET.DEC.PUBS Petition decision routed to Publications	

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/9/2012

TO SPE OF : ART UNIT 1761 Pyon Harold (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/188624 Patent No.: 8093197

CofC mailroom date: _____

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: _____

_____

_____

_____

_____

_____ _____

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 09 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of	:	
ASASAKA, HIDETOSHI et al	:	DECISION ON REQUEST TO
Application No. 11/755,154	:	PARTICIPATE IN PATENT
Filed: May 30, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 10022128US01	:	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 June 30, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must 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.

The request to participate in the PPH program and petition is deficient as follows:

Petitioner has not complied with item 2 above in that although a translation of the claims has been submitted, the petition fails to include a complete copy of the actual allowable/patentable claims from the JPO application. A JPO application document has been submitted. However, upon closer review, only a part of page 1 and pages 18-23 are viewable. Part of page 1 and pages 2-17 are either blank or have lines throughout. A complete copy of the allowable/patentable claims from the JPO application is required.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Any response must be submitted via EFS-web.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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P.O. Box 1450
Alexandria, VA 22313-1450
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TECHNOLOGY CENTER 2600

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of	:	
ASASAKA, HIDETOSHI et al	:	DECISION ON REQUEST TO
Application No. 11/755,154	:	PARTICIPATE IN PATENT
Filed: May 30, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 10022128US01	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed August 31, 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; and
(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.

The request to participate in the PPH program and petition now comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

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.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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RAMIREZ & SMITH
P.O. BOX 341179
AUSTIN, TX 78734

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AUG 19 2010

OFFICE OF PETITIONS

In re Application of
Scott William Petrick, et al.
Application No. 11/755,229
Filed: May 30, 2007
Attorney Docket No.: GE.0122

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 5, 2010, as required by the Notice of Allowance and Fee(s) Due mailed January 4, 2010. A Notice of Abandonment was subsequently mailed on April 21, 2010. On June 19, 2010, the present petition was filed.

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

The application is being referred to the Office of Data Management to be processed into a patent.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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JAN 09 2012

OFFICE OF PETITIONS

In re Application of :
Jun-Tae Kim et al. :
Application No. 11/755,287 :
Filed: May 30, 2007 : ON PETITION
Attorney Docket No: 1572.1555 :
:

This is a decision on the petition to withdraw the holding of abandonment, filed December 15, 2011, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to file a timely response to the non-Final Office Action mailed April 12, 2011, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed November 7, 2011. Petitioner asserts that the Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address previously used on all correspondences from the USPTO, including the Notice of Abandonment which was received. Petitioner has provided a copy of the docket to show that the Office Action mailed April 12, 2011 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Office Action mailed April 12, 2011, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 3653 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JAN 11 2011

OFFICE OF PETITIONS

BLUE LEAF I.P., INC.
P.O. BOX 1895
M.S. 641
NEW HOLLAND PA 17557

In re Application of :
Richard J. Lech et al. :
Application No. 11/755,324 : DECISION ON PETITION
Filed: May 30, 2007 :
Attorney Docket No. **18240** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 06, 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 23, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 23, 2010. Accordingly, the date of abandonment of this application is July 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of 1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been unintentionally delayed.

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **PATRICK SHELDRAKE**
500 DILLER AVE, MS 641
NEW HOLLAND PA 17557-9301

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

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OFFICE OF PETITIONS

In re Application of	:	
Jian Li et al.	:	
Application No. 11/755,331	:	NOTICE
Filed: May 30, 2007	:	
Attorney Docket No. **01640586AA**	:	

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

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SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Yuki NODA, et *al.* :
Application No. 11/755,376 : DECISION GRANTING PETITION
Filed: May 30, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **4635-039** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 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 August 25, 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 1783 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT 004770
1100 13TH STREET
SUITE 1200
WASHINGTON DC 20005-4051

In re Application of	:
Turku et al.	: DECISION ON REQUEST FOR
Application No. 11/755,383	: RECONSIDERATION OF PATENT
Filed: May 30, 2007	: TERM ADJUSTMENT
Attorney Docket No.	:
004770.01253	:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed March 28, 2012. Applicants request that the initial determination of patent term adjustment 35 U.S.C. §154(b) be set at 830 days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is eight hundred twelve (812) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 30, 2012, 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 seven hundred twelve (712) days.

Applicants contend that the applicant delay of 100 days, entered pursuant to 37 CFR 1.705(c)(7), for the filing of a third amendment on December 21, 2011 is not warranted as the notice of non-compliant amendment was vacated. Further, applicants argue entitlement to 18 days of examination delay for delay in replying to the second amendment filed September 12, 2011.

Applicants' argument is persuasive to an extent. The acceptance of the amendment filed December 21, 2011 shows that there was not an omission in the September 12, 2011 amendment within the meaning of 37 CFR 1.705(c)(7). See also Interview summary of December 29, 2011. Accordingly, the reduction of 100 days is being removed.

However, the Notice of Allowance was mailed within four months of and in response to the amendment filed December 21, 2011 and the authorization for examiner's amendment given in a telephone interview on January 26, 2012. As such, there was not Office delay within the meaning of the rules.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is eight hundred twelve (812) days.

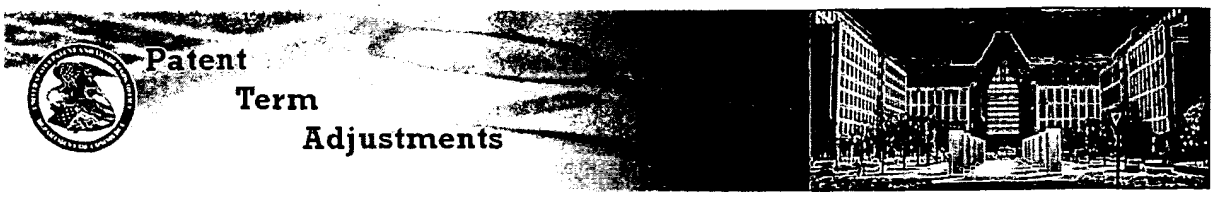
The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for processing into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation



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

Application Number*: 11755383 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11755383

Application Filing Date	05/30/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	931
A Delays	931	PTO Manual Adjustment	100
B Delays	0	Applicant Delay (APPL)	219
C Delays	0	Total PTA (days)	812

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
62	04/07/2012		P028	Adjustment of PTA Calculation by PTO	100		0
55	01/30/2012		MN/=.	Mail Notice of Allowance			0
54	01/28/2012		OAR	Office Action Review			0
53	01/28/2012		OAR	Office Action Review			0
52	01/28/2012		OAR	Office Action Review			0
51	01/28/2012		OAR	Office Action Review			0
50	01/28/2012		IREV	Issue Revision Completed			0
49	01/28/2012		DVER	Document Verification			0
48	01/28/2012		N/=.	Notice of Allowance Data Verification Completed			0
47	01/28/2012		DOCK	Case Docketed to Examiner in GAU			0
45	01/26/2012		EXIE	Interview Summary - Examiner Initiated			0
44	01/26/2012		EX.R	Reasons for Allowance			0
43	01/26/2012		EX.A	Examiner's Amendment Communication			0
42	01/26/2012		CNTA	Allowability Notice			0
41	12/29/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
40	12/27/2011		FWDX	Date Forwarded to Examiner			0
37	12/22/2011		OAR	Office Action Review			0
36	12/22/2011		OAR	Office Action Review			0
39	12/21/2011	09/12/2011	A...	Response after Non-Final Action		100	29
38	12/21/2011		C614	New or Additional Drawing Filed			0
35	12/20/2011		EXIA	Interview Summary- Applicant Initiated			0
34	12/20/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
33	11/21/2011		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
32	11/18/2011		OAR	Office Action Review			0
30	09/17/2011		FWDX	Date Forwarded to Examiner			0
31	09/12/2011		C614	New or Additional Drawing Filed			0
29.1	09/12/2011		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
29	09/12/2011	05/26/2011	A...	Response after Non-Final Action		109	24
28	08/11/2011		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
27	08/10/2011		OAR	Office Action Review			0
25	05/31/2011		FWDX	Date Forwarded to Examiner			0
26	05/26/2011		C614	New or Additional Drawing Filed			0
24.1	05/26/2011		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
24	05/26/2011	05/16/2011	A...	Response after Non-Final Action		10	22
23	05/26/2011		XT/G	Request for Extension of Time - Granted			0
22	02/16/2011	07/30/2008	MCTNF	Mail Non-Final Rejection	931		0.5
21	02/14/2011		CTNF	Non-Final Rejection			0
15	12/23/2010		DOCK	Case Docketed to Examiner in GAU			0
14	11/17/2010		C.ADB	Correspondence Address Change			0
13	08/06/2009		DOCK	Case Docketed to Examiner in GAU			0
12	12/04/2008		PG-ISSUE	PG-Pub Issue Notification			0
17	05/07/2008		IDSC	Information Disclosure Statement considered			0
11	05/07/2008		EIDS.	Electronic Information Disclosure Statement			0
10	05/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
9	10/24/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
7	10/10/2007		OIPE	Application Dispatched from OIPE			0
46	08/07/2007		EIDS.	Electronic Information Disclosure Statement			0
16	08/07/2007		IDSC	Information Disclosure Statement considered			0
8	08/07/2007		RCAP	Reference capture on IDS			0
6	08/07/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
5	06/22/2007		PGPC	Sent to Classification Contractor			0
4	06/22/2007		COMP	Application Is Now Complete			0
3	06/13/2007		L194	Cleared by OIPE CSR			0

2	06/06/2007	SCAN	IFW Scan & PACR Auto Security Review	0
1	05/30/2007	IEXX	Initial Exam Team nn	0
0.5	05/30/2007	EFILE	Filing date	0

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DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Walley et al. :
Application No. 11/755,395 : ON APPLICATION FOR
Filed: May 30, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. :
18029US01 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705), filed on October 7, 2010, which is treated as a request for reconsideration under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased from 404 days to 435 days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The request is **DISMISSED**.

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

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

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

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

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

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

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

---

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

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

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 **DISMISSED.**

On July 27, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date was 404 days (406 days of PTO delay and 2 days of applicant delay).

The instant application for patent term adjustment was timely filed.[2]

Applicants assert that the 2 day reduction for applicant delay is incorrect and should be removed.

With respect to the 2 day period of reduction for applicant delay for the filing of a reply on June 28, 2010, three months and 1 day after the mailing of an Office action on March 26, 2010, applicants' argument is not well taken.

35 U.S.C. 154(b)(2)(C)(ii) establishes the standard of reply by applicants to within three months of the date a notice is given or mailed to applicants.[3] The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.[4]

It is undisputed that the reply to the Office action mailed on March 26, 2010 was filed on June 28, 2010, three (3) months and two (2) days after the date the Office action was mailed. In this regard, the timeliness of the reply for purposes of avoiding abandonment is not relevant to the determination of patent term adjustment.[5] Accordingly, applicants' argument on

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[2] PALM Records indicate that the issue fee was paid on October 7, 2010.

[3] See, Comment 11, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56366 (September 18, 2000).

[4] See 37 CFR 1.704(b).

[5] See also, 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56366 (September 18, 2000).

application for removal of the 1 day reduction for applicant delay is not found persuasive.

Likewise, while 37 CFR 1.7(a) sets the time period for reply, it does not govern the determination of patent term adjustment. Simply put, the fact that the due date for a reply fell on a date more than three months from date the Office communication was mailed has no bearing on the determination of patent term adjustment.

In view thereof, no change will be made in the determination of patent term adjustment at the time of the mailing of the notice of allowance.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA VA 22314

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APR 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,894,680 :
Issue Date: February 22, 2011 :
Application No. 11/755,476 : DECISION ON PETITION
Filed: May 30, 2007 :
Attorney Docket No. 309563US8 :

This is a decision on the petition, filed, March 09, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

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

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

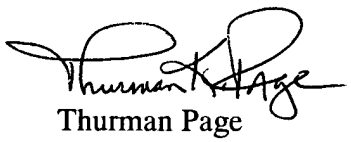
> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Medison Co., Ltd., Hongchun-gun (KR)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.



Thurman Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120131

DATE : January 31, 2012

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7851439

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:

/CECILIA J TSANG/
Supervisory Patent Examiner.Art Unit 1654

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P.O. Box 1450
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INGRASSIA FISHER & LORENZ PC
7010 E COCHISE ROAD
SCOTTSDALE AZ 85253

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Application of :
Kyler, et al. :
Application No. 11/755,498 : ON PETITION
Filed: May 30, 2007 :
Attorney Docket No. 2324-070 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 4, 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 July 10, 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 August 11, 2009. The Office mailed a Notice of Abandonment on February 18, 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.

The application is being forwarded to Group Art Unit 2811 for consideration of the Election, filed November 4, 2011.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

MAILED

FEB 23 2011

OFFICE OF PETITIONS

In re Application of :
Tamotsu Morimoto et al. : DECISION ON PETITION
Application No. 11/755,555 :
Filed: May 30, 2007 :
Attorney Docket No. 309340USOCONT :

This is a decision on the petition filed December 22, 2010 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is GRANTED.

The above-referenced application was held abandoned, for failure to file an Appeal Brief, within two months of the filing of a Notice of Appeal on July 22, 2010, in response to a Final Office Action mailed January 22, 2010. Accordingly, email notification of the Notice of Abandonment was sent October 29, 2010.

Petitioner argues that the period for response with extensions of time pursuant to 37 CFR 1.136(a) has not lapsed and thus the Abandonment and Notice of Abandonment are premature.

Under the provisions of 37 CFR 1.136(a), an extension of time up to five months could be obtained making the due date for filing an Appeal Brief December 22, 2010, as claimed by petitioner. As the period for extensions had not expired, the application is not abandoned and the Notice of Abandonment was mailed prematurely.

The instant petition includes a Request for Continued Examination, an amendment as the submission required under 37 CFR 1.114 and a three month extension of time. In view thereof, the response is timely filed and the Notice of Abandonment was sent in error and is hereby withdrawn. No fee for the petition to withdraw the holding of abandonment is due and none has been charged.

This matter is being referred to Technology Center 2879 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-29-11

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 11755588 Patent No.: 7967559

CofC mailroom date: 7-18-11

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 – 9D40-E
Palm Location 7580

Note: _____ Omega Lewis

703-756-1575

Thank You For Your Assistance

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

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

Comments: The proposed change to column 6, line 45 is approved. The proposed change to column 10, line 18, in Claim 6 is not approved because it introduces new matter.

/Edward Look/ 3745
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **08/17/11**

TO SPE OF : ART UNIT: **1772 Attn: BULLOCK IN SUK C (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/755605** Patent No.: **7976792**

CofC mailroom date: **08/08/11**

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: **Please check Claim 1 for the Requested change on PTOL SB/44 Form**

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

Thank You For Your Assistance

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

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

Comments: Claim amendment to claim 1 (col. 6, line 29) is approved changing "position" to "configuration" to ensure a proper antecedent basis.

/D.W./

/In Suk Bullock/ — **SPE**

1772 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/10/2011 Paper No.: —

TO SPE OF : ART UNIT 2159

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/755649 Patent No.: 7769711 B2

CofC mailroom date: 2/25/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Jallet
Certificates of Correction Branch

~~703-756-1044~~
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

2159
Art Unit

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

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Application of :

SAWA, Shirou et al. :
Application No. 11/755,662 : DECISION ON PETITION
Filed: May 30, 2007 : TO WITHDRAW
Attorney Docket No. **022092-001210US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 29, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **ISTA PHARMACEUTICALS**
C/O JAMES CURRIE
15295 ALTON PARKWAY
IRVINE CA 92618

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MAILED

OCT 17 2011

OFFICE OF PETITIONS

In re Application of	:	
SAWA, et al	:	
Application No. 11/755,662	:	DECISION ON PETITION
Filed: May 30, 2007	:	TO WITHDRAW
Attorney Docket No. 022092-001210US	:	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 28, 2011.

The request is **DISMISSED**.

The Request to withdraw from record cannot be approved because the request to change the correspondence address is not acceptable. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 37 CFR 3.71 states:

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

According to a review of USPTO records, Senju Pharmaceutical Co., Ltd. does not have a Statement under 37 CFR 3.73(b) of record in the instant application. In this regard, the Office cannot change the correspondence address to the address indicated on the Request to Withdraw filed September 28, 2011, because the assignee has not properly intervened.

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: SENJU PHARMACEUTICAL CO., LTD.
2-5-8, HIRANO-MACHI, CHUO-KU
OSAKA, JAPAN

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247UNITED STATES PATENT AND TRADEMARK OFFICE

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of	:	
John-Alistair George et al.	:	
Application No. 11/755,691	:	DECISION ON PETITION
Filed: May 30, 2007	:	
Attorney Docket No. 418268722US2	:	

This is a decision on the Petition to Expunge From Record, filed May 13, 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the Replacement Drawings filed on May 5, 2010, be expunged from the record. Petitioner requests that the above noted replacement drawings be expunged due to technical issues when uploading them to the file wrapper. It is not clear from this statement why these replacement drawings need to be expunged but in any event the petition is not grantable at this time as indicated below.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

The petition fee has been charged to petitioner's deposit account.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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ACUITY LAW GROUP, P.C.
12707 HIGH BLUFF DRIVE
SUITE 200
SAN DIEGO CA 92130-2037

MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Application of :
SABBADINI, et al :
Application No. 11/755,699 : ON PETITION
Filed: May 30, 2007 :
Attorney Docket No. LPT-3100-UT3 :

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

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 22, 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 December 23, 2010. *See* MPEP 1215.04. A Notice of Abandonment was mailed June 17, 2011.

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

With respect to item (3): The statement of unintentional delay under 37 CFR 1.137(b) cannot be accepted because the statement does not include a proper electronic signature. See 37 CFR

1.4(d)(2)(ii). In this regard, if Daniel M. Chambers is signing the petition in the capacity of a registered patent attorney, a registration number should be provided. Accordingly, the petition is considered to not contain a proper statement of unintentional delay.

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

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

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

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

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

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

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

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OCT 04 2011
OFFICE OF PETITIONS

In re Application of	:	
SABBADINI, et al	:	
Application No. 11/755,699	:	ON PETITION
Filed: May 30, 2007	:	
Attorney Docket No. LPT-3100-UT3	:	

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

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 22, 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 December 23, 2010. *See* MPEP 1215.04. A Notice of Abandonment was mailed June 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1641 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 Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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MAILED

OCT 17 2011

OFFICE OF PETITIONS

In re Application of :
SABBADINI, et al :
Application No. 11/755,699 :
Filed: May 30, 2007 :
Attorney Docket No. LPT-3100-UT3 :

CORRECTED
DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 22, 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 December 23, 2010. *See* MPEP 1215.04. A Notice of Abandonment was mailed June 17, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1641 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 Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Sun et al.	:	
Application No. 11/755,768	:	DECISION GRANTING STATUS
Filed: May 31, 2007	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 08560015PA	:	

This is in response to the petition under 37 CFR 1.47(a), filed December 17, 2007.

The petition is **GRANTED**.

Petitioner has shown that the nonsigning inventor, David Hone, has refused to join in the filing of the above-identified application.

The above-identified 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 Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The requisite $200.00 petition fee will be charged to petitioner's deposit account as authorized.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID MICHAEL HONE
14708 WATERWAY DRIVE
ROCKVILLE, MD 20850

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Sun et al.	:	
Application No. 11/755,768	:	ON PETITION
Filed: May 31, 2007	:	
Attorney Docket No. 08560015PA	:	

Mr. Hone,

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 in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Examiner Liana Walsh at (571) 272-3206. 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 Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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PHILIP D. FREEDMAN PC
1449 DRAKE LANE
LANCASTER PA 17601

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Farris et al.	:	
Application No. 11/755,857	:	DECISION ON PETITION
Filed: May 31, 2007	:	
Attorney Docket No. 213899-08	:	

This is a decision on the petition, filed October 13, 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 Office action mailed March 1, 2010, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 15, 2010.

Petitioner asserts that the Office action dated March 1, 2010 was not received.

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

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.

(2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

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

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

In view of petitioner submitting an Amendment with the instant petition in response to the March 1, 2010 Office action, the application will be referred to Technology Center AU 1796 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/11

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction for Appl. No.: 11755893 Patent No.: 7814034

CofC mailroom date: 02/02/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

SPE TC2100 AU 2129

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/17/11

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction for Appl. No.: 11755893 Patent No.: 7814034

CofC mailroom date: 02/02/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE TC2100 AU 2129

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/21/2012

TO SPE OF . ART UNIT 1727 Gilliam, Barbara (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/755914 Patent No 8029936

CofC mailroom date: _____

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.

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

Comments: _____

Barbara Gilliam
SPE

1727
Art Unit

UNITED STATES 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.
11/756,027	31 May 2007	DU ET AL.	213576-2

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

EXAMINER
EDWARD GLICK

ART UNIT	PAPER
2882	20110919

DATE MAILED:

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

Commissioner for Patents

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-14-11 **Paper No.** 09192011

TO SPE OF : ART UNIT 2882

SUBJECT : Request for Certificate of Correction for Appl. No.: W:7560027 Patent No.: 7869103

CofC mailroom date: 6-8-11

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

Erin 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.

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

Comments: _____

/Ed Glick/
Supervisory Patent Examiner
SPE

GAU 2882
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111019

DATE : October 19, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7986955

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/JINSONG HU/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JEFFREY W. SAINIO
7206 W. WABASH AVE.
MILWAUKEE WI 53223

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JUL 20 2011

OFFICE OF PETITIONS

In re Application of :
Thomas V. Roden :
Application No. 11/756,069 : DECISION ON PETITION
Filed: May 31, 2007 :
Attorney Docket No. 2145.001 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before May 4, 2011, as required by the Notice of Allowance and Fee(s) Due mailed February 4, 2011. Accordingly, the date of abandonment of this application is May 5, 2011. A Notice of Abandonment was mailed May 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 $755.00 (previously paid May 6, 2011), (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Publishing Division for processing into a patent.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sprinkle IP Law Group/Zimmer
1301 W. 25th Street
Suite 408
Austin, TX 78705

MAILED

FEB 27 2012

OFFICE OF PETITIONS

In re Application of :
Jeremy Lemoine :
Application No. 11/756,106 : DECISION ON PETITION
Filed: May 31, 2007 : TO WITHDRAW
Attorney Docket No. 1292.1408102 : 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, 2012.

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 the firm of Sprinkle Law Group have been revoked by the assignee of the patent application on February 13, 2012. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Seager, Tufte & Wickhem, LLC
1221 Nicollet Avenue
Suite 800
Minneapolis, MN 55403-2420

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC 06 2011

OFFICE OF PETITIONS

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

In re Patent No. 8,019,742 :
Baluja et al. : DECISION ON REQUEST FOR
Issue Date: September 13, 2011 : RECONSIDERATION OF
Application No. 11/756,127 : PATENT TERM ADJUSTMENT
Filed: May 31, 2007 :
Attorney Docket No. 16113-0209001 :
Title: IDENTIFYING RELATED QUERIES :

This is a decision on the petition filed on November 10, 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 seventy-nine (479) 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. 8,019,742 on September 13, 2011. The patent issued with a patent term adjustment of 413 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 133 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 264 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 133 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

---

[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 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

[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).

Patentees also indicate that a 65 day reduction is required for the submission of an information disclosure statement on December 16, 2010.

Patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Thus, Patentees' request for reconsideration of said 65 day reduction is dismissed as untimely. The patent term can be disclaimed with a statutory disclaimer at any time after issuance of the patent.

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

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

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

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

Charlema Grant
Attorney Advisor
Office of Petitions

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NOV 16 2010

OFFICE OF PETITIONS

STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE CA 95113

In re Application of :
Marc Loinz :
Application No. 11/756,139 : NOTICE
Filed: May 31, 2007 :
Attorney Docket No. **NTLG.P0017** :

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/17/11

TO SPE OF : ART UNIT: 3637 Attn: JAYNE DARNELL M (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/756158 Patent No.: 7878128

C of C Mailroom date: 02/28/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: /Jose V. Chen/ AU 3637 Primary Examiner

/Darnell Jayne/ SPE

3637 Art Unit

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OCT 20 2010

OFFICE OF PETITIONS

FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Patent No. 7,757,638	: DECISION ON REQUEST FOR
Wang, et al.	: RECONSIDERATION OF
Issue Date: July 20, 2010	: PATENT TERM ADJUSTMENT
Application No. 11/756,209	:
Filed: May 31, 2007	:
Attorney Docket No. 8970.95145	:

This is a decision on the petition filed on September 15, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted one hundred and sixty-one (161) days.

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

On July 20, 2010, the above-identified application matured into U.S. Patent No. 7,757,638, with a revised patent term of 55 days. By the instant petition, patentees assert that the patent term should be adjusted by 161 days pursuant to 35 U.S.C. 154(b)(1)(C)(iii). Specifically, patentees' state:

> Under 35 U.S.C. 154(b)(1)(C)(iii), the term of the patent shall be adjusted for the period beginning on the date on which a Notice of Appeal to the BPAI was filed under 35 U.S.C. 134 and ending on the date of a final decision in favour of the Applicant by the BPAI. The present case was under Appeal as of the date of filing of the Notice of Appeal under 35 U.S.C. 134 by the Applicant on February 3, 2010 and the Appellants' Appeal Brief under 37 CFR 41.37 was filed on April 5, 2010...
>
> In this application, a Notice of Allowance under 35 U.S.C. 151 was mailed on May 19, 2010, effective as a decision in favor of the Appellants. Therefore, the period running from the filing of the Notice of Appeal on February 3, 2010, and ending at the mailing of the Notice of Allowance on May 19, 2010, totalling 106 days should be credited to Application under 35 U.S.C. 154(b)(1)(C)(iii).

Excerpt taken from "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)", filed September 15, 2010, pgs. 2-3.

Patentees' argument has been considered, but is not persuasive. Further to this point, it is noted that 35 U.S.C. 154(b)(1)(C)(iii) states:

> (C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS.—Subject to the limitation under paragraph (2), if the issue of an original patent is delayed due to--
>
> (iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of pendency of the proceeding, order, or review as the case may be.

Further it is noted that 37 CFR 1.702(e) states, in pertinent part, that:

> [s]ubject 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 review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or a Federal court under 35 U.S.C. 141 or 145, of the patent was issued under a decision in the review reversing an adverse determination of patentability. If an application is remanded by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision by the Board of Patent Appeals and Interferences as that phrase is used in 35 U.S.C. 54(b)(1)(A)(iii), and a final decision in favor of the applicant under § 1.703(e).

A review of the record does not indicate that a successful appeal within the meaning of 35 U.S.C. 154(b)(1)(C)(iii) or 37 CFR 1.702(e) such that adjustment to the patent term pursuant to 37 CFR 1.702(e) and 1.703(e) is warranted. It is noted that that 37 CFR 1.702(e) provides a circumstance where a remand of an application from the BPAI back to the examiner prior to the mailing of a notice is tantamount to a successful appeal, however, no such circumstance occurred in this instance.

In view thereof, no change will be made to the patent term adjustment of 55 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 is in receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

By Mail: Mail Stop Petition
Commissioner 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 specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120319

DATE : March 19, 2012

TO SPE OF : ART UNIT 3643

SUBJECT : Request for Certificate of Correction on Patent No.: 7,757,638

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:

Renumbered claims as to final numbers per examiner's final numbered claims.

/PETER M POON/
Supervisory Patent Examiner.Art Unit 3643

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD, HILLS MI 48303

In re Application of
Nicholas J. Webb
Application No. 11/756,219
Filed: May 31, 2007
Attorney Docket No.: 15379-000008/US/CPB

ON PETITION

This is a decision in response to the petition, filed July 21, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 26, 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 January 27, 2010. A Notice of Abandonment was mailed on May 24, 2010. On July 21, 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on July 21, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 3765 for appropriate action by the Examiner in the normal course of business on the amendment received January 4, 2008.

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

cc: ROBERT M. SIMINSKI
5445 CORPORATE DRIVE, SUITE 2000
TROY, MI 48098

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IP GROUP OF DLA PIPER LLP (US)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

In re Application of: Hendrickson et al. Application No.: 11/756242 Filed: May 31, 2007 Title: BELLY COVERING GARMENT	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on June 24, 2010 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy

statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. The Notice of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) can be accessed on the internet at
http://www.uspto.gov/web/offices/com/sol/notices/71fr36323.pdf

Further guidance may be found website of the USPTO at
http://www.uspto.gov/web/patents/accelerated

under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Linda Sholl, TC 3700 Special Program Examiner, at (571) 272-4391.

Linda Sholl
Special Program Examiner
Technology Center 3700

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ALEXANDRIA, VA 22313-1450
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Paper No.

MOTOROLA SOLUTIONS, INC.
Penny Tomko
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of :
Zhang et al. : ON PETITION
Application No. 11/756,254 :
Filed: May 31, 2007 :
Attorney Docket No. CML04631T :

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 17, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, July 14, 2010, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on October 29, 2010.

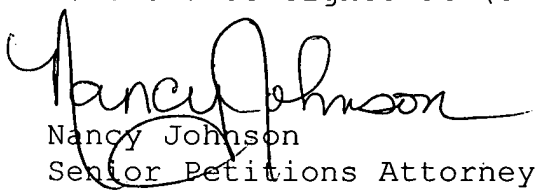
The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

[1] There was no distinct but concurrent requirement for new drawings.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

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NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Broze, et al. :
Application No. 11/756,267 : ON APPLICATION FOR
Filed: May 31, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 7926-00-HC :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705, filed September 22, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred eighty-six (386) days, not three hundred forty-two (342) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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909 RIVER ROAD
PISCATAWAY NJ 08855

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DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Guy Broze, et al.	:	
Application No. 11/756,267	:	DECISION GRANTING PETITION
Filed: May 31, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7926-00-HC	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 3, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 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 1796 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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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of :
Broze et al. :
Application No. 11/756,267 : ON PETITION
Filed: May 31, 2007 :
Attorney Docket No. 7926-00-HC :

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

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 14, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 15, 2011. A Notice of Abandonment was mailed on May 6, 2011.

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

Petitioner asserts that docketing error was the cause of delay in acting to prevent the application from becoming abandoned. A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. *See* MPEP 711.03(c)(III)(C)(2).

An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. Petitioner has failed to explain who was responsible for the docketing error. Petitioner must also supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620.00 petition fee.

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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

MAILED

OCT 11 2011

OFFICE OF PETITIONS

In re Application of :
Nadim Abdo et al :
Application No. 11/756,284 : DECISION GRANTING PETITION
Filed: May 31, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-3418US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 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 September 30, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2442 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/756,450	05/31/2007	Robert P. Morris	I451/US	1856

49277 7590 09/21/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
BELANI, KISHIN G	

ART UNIT	PAPER NUMBER
2443	

DATE MAILED: 09/21/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Scenera Research, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
Morris
Appl. No.: 11/756,450
Filed: May 31, 2007
For: **METHOD AND SYSTEM FOR MANAGING COMMUNICATION PROTOCOL DATA BASED ON MIME TYPES**

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on August 25, 2011. This is the fourth petition for suspension.

The petition is **GRANTED**.

Pursuant to applicant's request filed on August 25, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from the mailing of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Christopher Grant whose telephone number is (571) 272-7294.

/Christopher Grant/
Christopher Grant, WQAS
Technology Center 2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01-18-12

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/756471 Patent No.: 7853064

CofC mailroom date: 03-03-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Angela Green 571.272.9005
CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE SAMIR AHMED SUPERVISORY PATENT EXAMINER **Art Unit** 2624

PAGE 1/1 * RCVD AT 1/19/2012 2:18:38 PM [Eastern Standard Time] * SVR:W-PTOFAX-001/27 * DNIS:2709848 * CSID:5712730045 * DURATION (mm-ss):00-57

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MAILED

JUN 17 2011

OFFICE OF PETITIONS

JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

In re Application of	:	
Haldopoulos et al.	:	DECISION
Application No. 11/756,509	:	ON APPLICATION FOR
Filed: May 31, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 37370-394882	:	
Title: MODULAR FILTER	:	
ASSEMBLY	:	

This is a decision on the "Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance," filed April 8, 2011, which is being treated as a petition pursuant to 37 C.F.R. § 1.705(b). Applicants request that the patent term adjustment be corrected from four hundred and fifty-seven (457) days to six hundred and thirty-two (632) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **DISMISSED**.

Applicants are given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

On March 21, 2011, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 457 days. The present request for reconsideration, filed on April 8, 2011, was timely filed as it was submitted prior to the submission of the issue fee on April 12, 2011. See § 1.705(b).

Applicants have indicated that any patent issuing from this patent is not subject to a terminal disclaimer.[1]

[1] Petition, page 5, paragraph 8.

A notice of missing parts was mailed on June 21, 2007. The above-identified application became abandoned for failure to reply in a timely manner to said notice, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 22, 2007. A notice of abandonment was mailed on March 3, 2008. A response was received three months and 231 days later on May 9, 2008: Applicants submitted both a response to the aforementioned notice and a petition pursuant to 37 C.F.R. § 1.181(a). As such, a reduction of 231 days was assessed, pursuant to 37 C.F.R § 1.704(b).

The petition pursuant to 37 C.F.R. § 1.181(a) was granted via the mailing of a decision, which indicated that the petition was granted on the basis that Applicants established that both a response and a request for an extension of time was submitted on November 16, 2007, via the inclusion of a certificate of mailing pursuant to 37 C.F.R. § 1.8.

Applicants have argued that the 231-day reduction is improper, and that two reductions should have been entered in it's place: a reduction of 56 days pursuant to 37 C.F.R. § 1.704(b)[2] and a reduction of six days pursuant to 37 C.F.R. § 1.704(c)(4).[3]

Applicants' argument has been considered, and has been deemed to be unpersuasive. 37 C.F.R. § 1.703(f) provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, since the 37 C.F.R. § 1.8 exception to 37 C.F.R. § 1.6(a) does not apply to patent term adjustment calculations, for the purposes of calculating patent term adjustment, *the controlling date for a paper that is physically mailed via the First Cass Mail service of the USPS is the date on which the paper is received in the Office*: May 9, 2008. It follows that the 231-day reduction was properly assessed. Moreover, it is noted that both the requested 56-day reduction and the six-day reduction fall within the 231-day period between September 22, 2007 and May 9, 2008.

---

[2] The submission of November 16, 2007 was submitted three months and 56 days after the mailing of the notice of missing parts.

[3] The petition pursuant to 37 C.F.R. § 1.181(a) was filed two months and six days after the mailing of the notice of abandonment.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACRONIX
C/O HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

MAILED
AUG 12 2011
OFFICE OF PETITIONS

In re Application of :
Hang-Ting Lue :
Application No. 11/756,559 : DECISION GRANTING PETITION
Filed: May 31, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MXIC 1784-2 :

This is a decision on the 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 5, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2814 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 24, 2011

TO SPE OF : ART UNIT 1778 SPE Nam X. Nguyen .

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/756,610 Patent No.: 7,972,501 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 dependency of claim 6 in patent be changed from "5" to "1" as requested by applicant?
See COCIN dated 8-9-2011

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.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- **xDenied** — State the reasons for denial below.

Comments: The change would render claim 6 indefinite because the term "the skid" would lack clear antecedent basis, since claims 1 fails to recite "a skid".

_____ **SPE** Nam X. Nguyen **Art Unit** 1778

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

November 2, 2011

Patent No.: 7,972,501 B2
Applicant : Scott Blair Godlien
Issued : July 5, 2011
For : **FLUID CLARIFICATION SYSTEM AND APPARATUS**
Docket No. : **6151SBG-1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Respecting the alleged error in claim 6 changing the dependency from "5" to "1" at Column 11, line 14. The change would render claim 6 indefinite because the term "the skid" would lack clear antecedent basis, since claim 1 fails to recite "a skid". The correction to change the dependency of claim 6 is disapproved by the examiner.

In view of the foregoing, you request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Antonio Johnson
(571)272-0483
For Mary F. Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

AJ/cbn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 8/27/10

TO SPE OF : ART UNIT: 2894 Attn: NGUYEN KIMBERLY D (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/756620 Patent No.: 7554208

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:
Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Certificate of Correction filed July 10, 2010 is approved.

Kimberly Nguyen 2894
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INFINEON TECHNOLOGIES AG
Patent Department
MUC 11.1.507
P.O. Box 221644
Munich 80506 DE GERMANY

MAILED

JAN 27 2012

OFFICE OF PETITIONS

In re Application of
Jan Otterstedt, et al.
Application No. 11/756,639
Filed: January 1, 2007
Attorney Docket No.: 2007P51035US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 22, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before December 6, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed September 6, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 7, 2011. A Notice of Abandonment was subsequently mailed on December 22, 2011. On December 22, 2011, the present petition was filed.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The petition 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

cc: PHILIP H. SCHLAZER
INFINEON TECHNOGIES AG
AM CAMPEON 1-12
85579 NEUBIBERG, GERMANY

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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Mintz, Levin, Cohn, Ferris, Glovsky
And Popeo, P.C.
One Financial Center
Boston, MA 02111

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Dean Iverson Sproles :
Application No. 11/756,864 : DECISION ON PETITION
Filed: June 1, 2007 : TO WITHDRAW
Attorney Docket No. 38044-501003US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 30, 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 Mintz, Levin, Cohen, Ferris, Glovsky and Popeo, P.C., has been revoked by the assignee of the patent application on January 7, 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 Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Stoel Rives, LLP – SLC
201 South Main Street, Suite 1100
One Utah Center
Salt Lake City, UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Dean Iverson Sproles :
Application No. 11/756,864 : DECISION ON PETITION
Filed: June 1, 2007 : TO WITHDRAW
Attorney Docket No. 78372/1010 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 3, 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 Samuel E. Webb, on behalf of all attorneys/agents associated with customer number 32642. All attorneys/agents associated with customer number 32642 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: Iverson Genetic Diagnostics, Inc.
c/o Dean Sproles
19805 North Creek Parkway, Suite 200
Bothell, WA 98011

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
11/756,864	06/01/2007	Dean Iverson Sproles	78372/1010

CONFIRMATION NO. 1629

32642
STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

POWER OF ATTORNEY NOTICE

OC000000047814747

Date Mailed: 05/23/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/03/2011.

- 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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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

MAILED

AUG 31 2010

OFFICE OF PETITIONS

In re Application of :
Glenn D. Kirwin, et al. :
Application No. 11/756,875 : DECISION GRANTING PETITION
Filed: June 1, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 99-1013-C1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 30, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 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 3691 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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BLACK LOWE GRAHAM
701 5TH AVE., SUITE 4800
SEATTLE, WA 98104

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of
Bob Zeliff et al
Application No. 11/756,891
Filed: June 1, 2007
Attorney Docket No.: GORI-1-1012

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 19, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request is filed by Michael S. Smith on behalf of all the practitioners of record associated with Customer Number 86073.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the Customer Number provided (61654) does not identify the intervening assignee of the entire interest or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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	:	
Andrea Camuffo, et al.	:	
Application No. 11/757,047	:	DECISION ON PETITION
Filed: June 1, 2007	:	TO WITHDRAW
Attorney Docket No. IFXAG0156US	:	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 June 7, 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: **SpryIP, LLC**
IFX
5009 163rd PL SE
Bellevue, WA 98006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SEATTLE WA 98111-1247

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AUG 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Thomas R. Klim et al	:	
Application No. 11/757,050	:	DECISION GRANTING PETITION
Filed: June 1, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 32052.9573US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 23, 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 7, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3627 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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MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Afshin Partovi, et al.	:	
Application No. 11/757,067	:	DECISION GRANTING PETITION
Filed: June 1, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AFPA-01001US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 10, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Patent No. 7,860,859
Issued: December 28, 2010
Application No. 11/757,125
Filed: June 1, 2007
For: DETERMINING SEARCH QUERY STATISTICAL DATA FOR AN ADVERTISING CAMPAIGN BASED ON USER-SELECTED CRITERIA

: DECISION ON PATENT TERM

This is a decision on the application for patent term adjustment filed February 28, 2011 requesting that the patent term adjustment be increased from 267 days to 402 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,860,859 on December 28, 2010. The patent issued with a patent term adjustment of 267 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of zero days accorded pursuant o 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 135 days.

Petitioner's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at zero days.

35 USC 154(b)(1)(B) states in relevant part:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or

> (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) is zero days, the period from March 2, 2010, the date that the RCE was filed, to December 28, 2010, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,860,859
Issued: December 28, 2010
Application No. 11/757,125
Filed: June 1, 2007
For: DETERMINING SEARCH QUERY STATISTICAL DATA FOR AN ADVERTISING CAMPAIGN BASED ON USER-SELECTED CRITERIA

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration of decision mailed May 18, 2011 with respect to the application for patent term adjustment under 37 CFR 1.704(d) filed February 28, 2011. This request, filed July 15, 2011, is deemed timely filed within the meaning of 37 CFR 1.181(f).

RELEVANT BACKGROUND

Patentees request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Abbott Biotherapeutics Corp v. Kappos, 1:2010cv01853 (D.D.C. 2010).

The request is hereby DENIED. This decision is a final agency action within the meaning of 5 USC §704 for purposes of seeking judicial review. See, MPEP 1002.02.

The above-identified application matured into U.S. Patent No. 7,860,859 on December 28, 2010 with a revised patent term adjustment of 267 days. On May 18, 2011, a decision on patentees' application for patent term adjustment under 37 CFR 1.705(d), filed February 28, 2011, was mailed. The decision under 37 CFR 1.705(d) mailed May 18, 2011 dismissed patentees' request for increase in patent term adjustment from 267 days to 402 days.

Patentees herein request that the patent term adjustment for the above-identified patent be increased from 267 days to 402 days (286 days pursuant to 37 CFR 1.703(a) plus 135 days pursuant to 37 CFR 1.703(b) less 19 days of applicant delay pursuant to 37 CFR 1.704(b)).

Patentees maintain that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend 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,

patentees argue that subsequent to the filing of the request for continued examination on March 2, 2010, examination of the application closed on August 16, 2010, the date upon which the Notice of Allowance was mailed. Thus, patentees argue that no continued examination took place during the 135 day period from August 16, 2010 (the mailing date of the Notice of Allowance) until December 28, 2010 (the date the patent was issued). As such, patentees maintain that the "B delay" should include the 135 days and be increased from zero days to 135 days. Thus, patentees conclude that the correct patent term adjustment is thus 402 days (the sum of 286 days of "A delay" and 135 days of "B delay" minus 19 days of applicant delay").

RELEVANT STATUTES

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.

DECISION

Patentees' arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as zero days based on the application having been filed under 35 USC 111(a) on June 1, 2007 and the patent not having issued as of June 2, 2010, the day after the date that is three years after the date that the application was filed, and a request for continued examination under 132(b) having been filed on March 2, 2010. In other words, the 135-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay." .

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on

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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.

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. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date

of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 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

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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.

application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See, 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See, 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in

response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in BlackLight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See, BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See, In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See, 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37

CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See, 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[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

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[3] Note, 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.

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).

CONCLUSION

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the above-identified patent is not entitled to a patent term extension or adjustment of 402 days. Therefore, the petition to change the patent term adjustment indicated on the above-identified patent to 402 days is **DENIED**.

This decision may be viewed as final agency action. See, MPEP 1002.02(b).

Telephone inquiries specific to this matter should be directed to Attorney Advisor Alesia M. Brown at (571) 272-3205.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAN 24 2012

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,860,859
Issued: December 28, 2010
Application No. 11/757,125
Filed: June 1, 2007
For: DETERMINING SEARCH QUERY STATISTICAL DATA FOR AN ADVERTISING CAMPAIGN BASED ON USER-SELECTED CRITERIA

: FINAL AGENCY DECISION
: ON REQUEST TO INVOKE THE
: SUPERVISORY AUTHORITY OF
: THE DIRECTOR

This is a decision on the petition filed November 21, 2011, requesting that the Director review the Final Agency Decision on Request for Reconsideration of Decision on Application for Patent Term Adjustment ("Decision") mailed by the Office of Petitions on September 23, 2011.

The Decision maintains that the above-identified patent is entitled to two hundred and sixty-seven (267) days of patent term adjustment ("PTA"). Patentees request that the Director review the decision and modify the PTA calculation to four hundred and two (402) days.

The decision of the Director of the Office of Petitions has been reviewed. However, because no error has been found in the decision, the petition under 37 CFR 1.181 is **DENIED**.

The patent term adjustment remains 267 days, as indicated in the final agency decision of September 23, 2011.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-9-11

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction for Appl. No.: 11757138 Patent No.: 7857388

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch
703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

DAVID DUNN
~~SUPERVISORY PATENT EXAMINER~~
SPE

3636
Art Unit

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LOWE GRAHAM JONES, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

MAILED

NOV 22 2011

OFFICE OF PETITIONS

In re Application of
Alexander Steinkogler et al.
Application No. 11/757,188
Filed: June 1, 2007
Attorney Docket No. **BBME-1-1001**

NOTICE

This is a notice regarding your request filed October 24, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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LOWE GRAHAM JONES, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

MAILED
FEB 14 2012
OFFICE OF PETITIONS

In re Application of :
Alexander Steinkogler et al. :
Application No. 11/757,188 : ON PETITION
Filed: June 1, 2007 :
Attorney Docket No. **BBME-1-1001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed July 22, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on October 23, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $1,860; 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 appropriate action in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

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ELECTRO SCIENTIFIC INDUSTRIES
/STOEL RIVES, LLP
900 SW FIFTH AVE.
SUITE 2600
PORTLAND OR 97204-1268

MAILED
NOV 02 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Lei et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 11/757,253	:	
Filed: June 1, 2007	:	
Atty Docket No. E127-N1	:	

This is a decision on the PETITION UNDER 37 CFR 1.78(a)(3) TO ACCEPT UNINTENTIONALLY DELAYED CLAIM UNDER 35 USC 120 filed July 11, 2011, to accept an unintentionally delayed claim to prior-filed application No. 11/131,432. This decision is made in light of the amendment filed October 17, 2011, requesting that the application be amended to remove the reference to application No. 11/132,432.

The petition is **DISMISSED AS MOOT**.

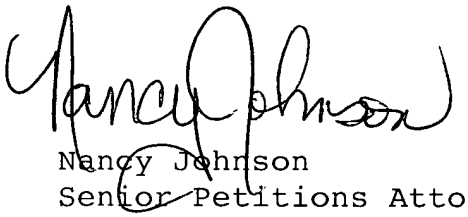
The reference was supplied in an amendment filed May 11, 2011. This was after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). Prior to consideration of the petition under 37 CFR § 1.78(a)(3), applicants filed an amendment requesting removal of the subject reference.

In view thereof, the request to accept the unintentionally delayed claim is mooted. The claim, therefore, has not been accepted, or even considered, on petition.

In view of the above, the $1410 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

This application is being referred to Technology Center Art Unit 3742 for consideration by the examiner of the request for continued examination (RCE) and other papers filed October 17, 2011.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Pros Hwy

PTO/SB/20PCT-AT (10-10)
Approved for use through 01/31/2012. OMB 0651-0058
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE AUSTRIAN PATENT OFFICE (APO) AND THE USPTO

Application No:	11/757,313	Filing date:	June 1, 2007
First Named Inventor:	Harold L. STALFORD		
Title of the Invention:	METHODS AND SYSTEMS FOR MICRO MACHINES		

THIS REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM ALONG WITH THE REQUIRED DOCUMENTS MUST BE SUBMITTED VIA EFS-WEB. INFORMATION REGARDING EFS-WEB IS AVAILABLE AT HTTP://WWW.USPTO.GOV/EBC/EFS_HELP.HTML

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PCT-PPH PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PCT-PPH PROGRAM.

The above-identified application is (1) a national stage entry of the corresponding PCT application, or (2) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (3) a national application that claims domestic/ foreign priority to the corresponding PCT application, or (4) a national application which forms the basis for the priority claim in the corresponding PCT application, or (5) a continuing application of a U.S. application that satisfies one of (1) to (4) above, or (6) a U.S. application that claims domestic benefit to a U.S. provisional application which forms the basis for the priority claim in the corresponding PCT application.

The corresponding PCT application number(s) is/are: PCT/US2007/070359

The international filing date of the corresponding PCT application(s) is/are: June 4, 2007

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above–identified corresponding PCT application(s)**

☐ Is attached.

☑ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☐ Is attached.

☑ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

PTO/SB/20PCT-AT (10-10)
Approved for use through 01/31/2012. OMB 0651-0058
U.S.Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE APO AND THE USPTO

(continued)

Application No.:	11/757,313
First Named Inventor:	Harold L. STALFORD

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

☐ Is attached

☑ Has already been filed in the above-identified U.S. application on March 5, 2010

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

☐ Are attached.

☑ Have already been filed in the above-identified U.S. application on March 5, 2010

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
11-14	11-14	US claims 11-14 (previously elected in the Response to Election/Restriction filed May 13, 2011) are the same as the corresponding claims 11-14 in the corresponding PCT Application.

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /Terry J. Stalford/	Date July 11, 2011
Name (Print/Typed) Terry J. Stalford	Registration Number 39,522

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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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/757,313	06/01/2007	Harold Stalford	22660-0004001	2487

26231 7590 07/27/2011
FISH & RICHARDSON P.C. (DA)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
KENERLY, TERRANCE L	
ART UNIT	PAPER NUMBER
2834	

NOTIFICATION DATE	DELIVERY MODE
07/27/2011	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

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FISH & RICHARDSON P.C. (DA)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	**: DECISION ON REQUEST TO**
Harold STALFORD	**: PARTICIPATE IN THE PATENT**
Application No.: 11/757,313	**: PROSECUTION HIGHWAY**
Filed: 01 June 2007	**: PROGRAM AND PETITION**
Attorney Docket No.: 22660-0004001	**: TO MAKE SPECIAL UNDER**
For: METHODS AND SYSTEMS FOR MICRO MACHINES	**: 37 CFR 1.102(a)**

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed on 11 July 2011, to make the above-identified application special.

The request and petition are **DISMISSED**.

Discussion

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must have an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, IPAU, Russia, Spain, Finland, Austria, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof.

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

(8) Applicant is required to submit a claims correspondence table in English which indicates how all the claims in the U.S. application correspond to the claims indicated as having novelty, inventive step and industrial applicability in the latest international work product.

Requirements (1-3) and (5-8) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet requirements (4).

Regarding the requirement of condition (4), applicant has failed to ensure that all the claims in the U.S. application sufficiently correspond to the claims that have novelty, inventive step, and industrial applicability in the PCT application. For example, US claim 1 does not correspond to a PCT claim having novelty, inventive step, and industrial applicability. PCT claim 1 was held to lack novelty. The non-elected claims that do not correspond to PCT claims having novelty, inventive step, and industrial applicability must be cancelled for the petition to be granted.

Any renewed petition must be received prior to the beginning of examination of the US application. Any renewed petition filed after examination has begun will be denied for failing to meet requirement (5).

Applicant is given **ONE** opportunity within a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be filed via the Electronic Filing System (EFS) using the document description: Petition to make special under PCT – Patent Pros Hwy. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Telephone inquiries concerning this decision should be directed to Colleen Dunn at 571-272-1170.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

For:
Colleen Dunn
Quality Assurance Specialist
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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JHK LAW
P.O. BOX 1078
LA CANADA CA 91012-1078

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MAR 08 2012
OFFICE OF PETITIONS

In re Application of	:	
Oh	:	
Application No. 11/757,317	:	DECISION ON PETITION
Filed: 59520-00014	:	PURSUANT TO
Attorney Docket No. 59520-00014	:	37 C.F.R. § 1.137(B)
Title: COMPOSITION AND A KIT FOR DETECTING EARLY APOPTOSIS IN FROZEN UMBILICAL CORD AND A METHOD THEREFOR	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 30, 2012, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed May 10, 2011, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 11, 2011. A notice of abandonment was mailed on November 28, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on January 30, 2012 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

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.[1] Accordingly, since the $635.00 extension of time submitted with the petition on January 30, 2012 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.[2] All other inquiries

1 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
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).

concerning this application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JHK LAW
P. O. BOX 1078
LA CANADA CA 91012-1078

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AUG 31 2010

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 11/757,329 : DECISION
Filed: 1 June, 2007 : ON PETITION
Attorney Docket No.: 12300-03USA :

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 17 November, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 onl after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §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 C.F.R.§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 37 C.F.R. §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and §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 fails to comply with item (1) above.

On deposit on 1 June, 2007, the instant application did not include an incorporation by reference of the Korean Application No 10-2004-0108909, filed 20 December 2004. Nonetheless, Petitioner has submitted an amendment which seeks to do so now. Moreover, Petitioner appears to incorporate an amendment into the petition Such is not a proper amendment. It appears that Petitioner has failed to file an amendment to provide the reference required.

Application No. 11/757,329

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 C.F.R. §1.78(a)(2)(i) and under 37 C.F.R. §1.78(a)(5)(i).

Accordingly, the petition under 37 CFR 1.78(a)(3) is **dismissed**.

This matter is being referred to Technology Center/AU 1644 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon, attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

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JHK LAW
P. O. BOX 1078
LA CANADA, CA 91012-1078

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 11/757,329 : DECISION
Filed: 1 June, 2007 : ON PETITION
Attorney Docket No.: 12300-03USA :

This is a decision on the petition pursuant to 37 C.F.R. §1.78(a)(3), filed on 29 September, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §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 C.F.R.§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 37 C.F.R. §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and §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.

(Petitioner complained that the Office failed to note Petitioner's claim to priority made on deposit of the application. Petitioner will note, however, that he failed to set forth with particularity the relationship between the instant application and that to which he sought to claim priority.)

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§120 is accepted as being unintentionally delayed.

Application No. 11/757,329

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 37 C.F.R. 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application(s), accompanies this decision on petition.

This application is being forwarded to the examiner of Technology Center/AU 1644 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/757,329	06/01/2007	1644	1500	12300-03USA	26	11

CONFIRMATION NO. 2510

CORRECTED FILING RECEIPT

Joseph Hyosuk Kim
JHK Law
P.O. Box 1078
La Canada, CA 91012

OC00000046554414

Date Mailed: 03/14/2011

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)

Myung Kim, Bethesda, MD;
Jay Chung, Bethesda, MD;
June-Young Park, Seoul, KOREA, REPUBLIC OF;
Hyouna Yoo, Seoul, KOREA, REPUBLIC OF;
Sang-Min Lee, Kyeonggi-do, KOREA, REPUBLIC OF;
Yoon-Seok Lee, Kyunggi-do, KOREA, REPUBLIC OF;
Mison Koo, Seoul, KOREA, REPUBLIC OF;
Sang-Ho Park, Kyeonggi-do, KOREA, REPUBLIC OF;
Juheng Lee, Seoul, KOREA, REPUBLIC OF;
Young Mi Hur, Seoul, KOREA, REPUBLIC OF;

Power of Attorney:
Hyo Kim--41425

Domestic Priority data as claimed by applicant

This application is a CIP of 11/471,853 06/20/2006 PAT 7,740,856
which is a CIP of PCT/KR2005/004398 12/20/2005

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.)
REPUBLIC OF KOREA 10-2004-0108909 12/20/2004

If Required, Foreign Filing License Granted: 07/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/757,329**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Effect of Bst2 on inflammation

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Doc Code: PPH.PCT.652
Document Description: Petition to make special under PCT-Patent Pros Hwy

PTO/SB/20PCT-AT (10-10)
Approved for use through 01/31/2012. OMB 0651-0058
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT COOPERATION TREATY - PATENT PROSECUTION HIGHWAY (PCT-PPH) PILOT PROGRAM BETWEEN THE AUSTRIAN PATENT OFFICE (APO) AND THE USPTO

Application No:	11/757,341	Filing date:	June 1, 2007
First Named Inventor:	Harold STALFORD		
Title of the Invention:	MICRO TRANSPORT MACHINE AND METHODS FOR USING SAME		

THIS REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM ALONG WITH THE REQUIRED DOCUMENTS MUST BE SUBMITTED VIA EFS-WEB. INFORMATION REGARDING EFS-WEB IS AVAILABLE AT HTTP://WWW.USPTO.GOV/EBC/EFS_HELP.HTML

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PCT-PPH PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PCT-PPH PROGRAM.

The above-identified application is (1) a national stage entry of the corresponding PCT application, or (2) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (3) a national application that claims domestic/ foreign priority to the corresponding PCT application, or (4) a national application which forms the basis for the priority claim in the corresponding PCT application, or (5) a continuing application of a U.S. application that satisfies one of (1) to (4) above, or (6) a U.S. application that claims domestic benefit to a U.S. provisional application which forms the basis for the priority claim in the corresponding PCT application.

The corresponding PCT application number(s) is/are: PCT/US2007/070359

The international filing date of the corresponding PCT application(s) is/are: JUNE 4, 2007

I. List of Required Documents:

a. **A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the above–identified corresponding PCT application(s)**

☐ Is attached.

☑ Is not attached because the document is already in the U.S. application.

b. **A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the above-identified corresponding PCT application(s).**

☐ Is attached.

☑ Is not attached because the document is already in the U.S. application.

c. **English translations of the documents in a. and b. above are attached (if the documents are not in the English language). A statement that the English translation is accurate is attached for the document in b. above.**

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

PTO/SB/20PCT-AT (10-10)
Approved for use through 01/31/2012. OMB 0651-0058
U.S.Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PCT-PPH PILOT PROGRAM BETWEEN THE APO AND THE USPTO

(continued)

Application No.:	11/757,341
First Named Inventor:	Harold STALFORD

d. **(1) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the corresponding PCT application.**

☐ Is attached

☑ Has already been filed in the above-identified U.S. application on March 5, 2010

(2) Copies of all documents (except) for U.S. patents or U.S. patent application publications)

☐ Are attached.

☑ Have already been filed in the above-identified U.S. application on March 5, 2010

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in the corresponding PCT Application	Explanation regarding the correspondence
1-20	66-85	US claims 1-20 are the same as the corresponding claim
		66-85 in the corresponding PCT application.

III. All the claims in the US application sufficiently correspond to the patentable claims in the corresponding PCT application.

Signature /Terry J. Stalford/	Date July 11, 2011
Name (Print/Typed) Terry J. Stalford	Registration Number 39,522

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/757,341	06/01/2007	Harold Stalford	22660-0007001	2524

26231 7590 07/27/2011
FISH & RICHARDSON P.C. (DA)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
ARENA, ANDREW OWENS	
ART UNIT	PAPER NUMBER
2811	

NOTIFICATION DATE	DELIVERY MODE
07/27/2011	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

FISH & RICHARDSON P.C. (DA)
P.O. BOX 1022
MINNEAPOLIS MN 55440-10226

In re Application of
Harold STALFORM
Application No.: 11/757341
Filed: 01 June 2007
Attorney Docket No.: 22660-0007001
For: MICRO TRANSPORT MACHINE AND METHODS FOR USING SAME

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(a)

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(a), filed on 11 July 2011, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must have an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, NPI, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability

along with an English translation thereof and a statement that the English translation is accurate if the latest international work product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PCT-PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Colleen Dunn at 571-272-1170.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision once this application's formality reviews have been completed.

For:
Colleen Dunn
Quality Assurance Specialist
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK YOUNG PA
12086 FORT CAROLINE ROAD
UNIT 202
JACKSONVILLE FL 32225

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application of :
Kittle, et al. :
Application No. 11/757,364 : ON PETITION
Filed: June 2, 2007 :
Attorney Docket No. DJI07.001 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 4, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed November 18, 2010. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on February 19, 2011.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed an Amendment.

The application is being forwarded to Group Art Unit 3677 for consideration of the Amendment, filed August 4, 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
www.uspto.gov

MAILED

MAY 25 2011

OFFICE OF PETITIONS

DANIEL LAW OFFICES, P.A.
605 E. ROBINSON ST., SUITE 100
ORLANDO, FL 32801

In re Application of :
Eric Clawges :
Application No. 11/757,429 : ON PETITION
Filed: June 4, 2007 :
Attorney Docket No. 110306-US :

This is a decision on the petition filed April 28, 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 January 3, 2011, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 4, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of :
THOMAS, Charles W. :
Application No. 11/757,444 : DECISION ON PETITION
Filed: June 04, 2007 : TO WITHDRAW
Attorney Docket No. CAU.001 : 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 04, 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 Phillip Miller on behalf of all attorneys of record who are associated with customer No. 21254. All attorneys/agents associated with the Customer Number 21254 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 Charles Thomas at the address indicated below. There is an outstanding Office action mailed July 06, 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. CHARLES W. THOMAS**
4442 GRANDVIEW DRIVE
ASHLAND KY 41101

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,960,465	:	DECISION ON REQUEST FOR
RATHORE et al.	:	RECONSIDERATION OF
Issue Date: June 14, 2011	:	PATENT TERM ADJUSTMENT
Application No. 11/757,484	:	
Filed: June 4, 2007	:	
Atty Docket No. VTN5141USNP	:	

This is a decision on the petition filed on June 24, 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 seven hundred five (705) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentee disputes the period of time excluded from B delay for appellate review. Patentee's argument has been considered, but not found persuasive.

The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing

another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is thirty-nine (39) days, beginning on January 3, 2011, the date of filing of the notice of appeal and ending on February 10, 2011, the subsequent date of the mailing of a notice of allowance. Thus, B delay is 336 (375-39) days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

COCX

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.: COCX

DATE : **10/25/10**

TO SPE OF : ART UNIT **3634 Attn: MITCHELL KATHERINE W (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/757506** Patent No.: **7730930**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

Katherine Mitchell — **SPE**

3634 — **Art Unit**

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2nd FLOOR
DULUTH GA 30096

MAILED
NOV 16 2011
OFFICE OF PETITIONS

In re Application of	:	
LYONS et al.	:	
Application No. 11/757,529	:	DECISION DISMISSING PETITIONS
Filed: 06/04/2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 12806.U04	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed October 5, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the currently filed amendment to the specification.

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).

First, the Office notes that nonprovisional Application No. 11/757,529 was not filed within 12 months from the filing date of prior-filed provisional Applications Nos. 60/779,781 and 60/779,782. 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 October 5, 2011, is not acceptable as drafted because it improperly seeks to claim priority under 35 U.S.C. 119(e) to provisional Application Nos. 60/779,781 and 60/779,782 filed March 7, 2006.

Second, the Office notes that applicants are seeking to claim the benefit of **later filed** provisional applications. Pursuant to 37 CFR 1.78(a)(6):

> If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a **prior filed provisional application** may be accepted during the pendency of the later-filed application if the reference identifying the **prior-filed application** by provisional application number was unintentionally delayed

Emphasis added.

Specifically, nonprovisional Application No. 11/297,706, cannot claim the benefit of provisional Application Nos. 60/779,781 and 60/779,782, filed March 7, 2006, under 35 U.S.C. 119(e) because the provisional applications were filed after the filing date of Application No. 11/297,706 filed December 8, 2005.

Third, the Office notes:

> The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or

> continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

MPEP 201.11(III)(C).

After reviewing the chain of applications to which applicants are seeking a benefit claim, it appears intermediate application No. 11/675,649 does not identify all the prior filed applications. Specifically, Application No. 11/675,649 contains the following benefit claim: "This application [11/675,649] claims priority to U.S. Provisional Application No. 60/779,781 entitled "Two-Sided Thermal Printing" and filed on March 7, 2006 and U.S. Provisional Application No. 60/779,782 entitled "Dual-Sided Thermal Printer" and filed on March 7, 2006, and is a continuation-in-part of U.S. Application No. 11/297,706 entitled "Dual-Sided Thermal Printing" and filed on December 8, 2005 and a continuation-in-part of U.S. Application No. 11/644,262 entitled "Two-Sided Thermal Print Sensing" and filed on December 22, 2006; the disclosures of which, except U.S. Application No. 11/297,706, are hereby incorporated by reference herein." However, Application No. 11/675,649 does not contain a reference indicating that nonprovisional Application No. 11/644,262 claims the benefit of U.S. provisional Applications No. 60/779,781 and 60/779,782, filed March 7, 2006.

Moreover, it appears intermediate application No. 11/678,216 do not identify all the prior filed applications. Specifically, Application No. 11/678,216 contains the following benefit claim: "This application [11/678,216] claims priority to U.S. Provisional Application No. 60/779,781 entitled "Two-Sided Thermal Printing" and filed on March 7, 2006, and U.S. Provisional Application No. 60/779,782 entitled "Dual-Sided Thermal Printer" and filed on March 7, 2006, and is a continuation-in-part of U.S. Application No. 11/644,262 entitled "Two-Sided Thermal Print Sensing" and filed on December 22, 2006, and U.S. Application No. 11/675,649 entitled "Two-Sided Thermal Print Switch" and filed on February 16, 2007; the disclosures of which are hereby incorporated by reference herein." However, Application No. 11/678,216 does not contain a reference indicating that nonprovisional Application Nos. 11/644,262 and 11/675,649 claim the benefit of U.S. provisional applications No. 60/779,781 and 60/779,782, filed March 7, 2006. Additionally, Application No. 11/678,216 does not contain a reference indicating that nonprovisional Application No. 11/675,649 is a continuation in part of Application Nos. 11/644,262 and 11/297,706.

Applicants should review the benefit claim submitted on petition to ensure that appropriate references are made in the first application and in each intermediate application in the chain of prior applications.

As a condition for acceptance of the present petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), applicants **must (1)** remove the references indicating that Application Nos. 11/757,529 and 11/297,706 claim the benefit of provisional Application Nos. 60/779,781 and 60/779,782; **(2)** perfect the benefit claim under 35 U.S.C. 119(e) by filing a petition under 37 CFR 1.78(a)(6) in Application No. 11/675,649 to add a reference indicating that Application No. 11/644,262 claims the benefit of U.S. provisional Applications Nos. 60/779,781 and 60/779,782, filed March 7, 2006; and **(3)** perfect the benefit claim under 35 U.S.C. 120 and 35 U.S.C. 119(e) by filing a petition under 37 CFR 1.78(a)(3) and (a)(6) in Application No. 11/678,216 to add a reference indicating that Application Nos. 11/644,262 and 11/675,649 claim the benefit of U.S. provisional applications No. 60/779,781 and 60/779,782, filed March 7, 2006, and that Application No. 11/675,649 is a continuation in part of Application Nos. 11/644,262 and 11/297,706.

Applicants must await a decision granting the petitions in both Application No. 11/675,649 and 11/678,216 before filing a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in the present application.

Any renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by a Supplemental Application Data Sheet or an amendment to the first line of the specification correcting the deficiencies noted above. No additional petition fee is required for filing a renewed petition in this application. The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or an amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Rockwell Automation, Inc./FY
Susan M. Donahue
1201 South Second Street
E-7F19
Milwaukee WI 53204

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of :
Macharia et al. :
Application No.: 11/757557 : ON PETITION
Filing or 371(c) Date: 06/04/2007 :
Title of Invention: :
MODEL PREDICTIVE CONTROL OF :
A FERMENTATION FEED IN :
BIOFUEL PRODUCTION :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed April 26, 2010. The Office action set a one (1) 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 May 27, 2010. A Notice of Abandonment was mailed November 16, 2010.

Applicant files the present petition and includes a response to the Office communication. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. All future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 1631 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: STEVEN J. SINCLAIR
P.O. BOX 692289
HOUSTON, TX 77269-2289

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FISH & RICHARDSON P.C. (BO)
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MINNEAPOLIS MN 55440-1022

MAILED
SEP 15 2011
OFFICE OF PETITIONS

In re Patent No. 7,910,108
Issued: March 22, 2011
Application No. 11/757,600
Filed: June 4, 2007
Attorney Docket No. **20443-0094001 / 1NCY0061-001**

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on May 19, 2011, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 0 days to 56 days.

The request is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On March 22, 2011, the above-identified application matured into U.S. Patent No. 7,910,108 with a revised patent term adjustment of 0 days. On May 19, 2011, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 56 days.

Patentee disputes the reduction of 64 days for applicant delay and argues that a reply to a Notice of Allowance was due on or before February 4, 2011 (the date that is three months after November 4, 2010, the date on which the Notice of Allowance was mailed). Patentees filed fees on January 18, 2011. An Applicant Delay of 64 days was assessed for this reply, as it was improperly coded in the PAIR system as a "Miscellaneous Incoming Letter." Patentees respectfully submit that fees transmittal is not a failure to engage in reasonable efforts to conclude prosecution of the application

as intended in 37 C.F.R. § 1.704(c)(10), and asks that the Office recalculate the Applicant Delay as 0 days.

Patentee's argument has been considered but is not found to be persuasive. The reduction in question, after the mailing of the Notice of Allowance while a fee transmittal, was not transmitting the issue fee or PTOL-85B. Instead, the communication filed January 18, 2011, after the mailing of the Notice of Allowance was filed to correct a previous error in the record.

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 a proper 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.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

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

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.
11/757,684	06/04/2007	Yi Ding	81153052	3124

36865 7590 03/22/2011

ALLEMAN HALL MCCOY RUSSELL & TUTTLE, LLP
806 S.W. BROADWAY, SUITE 600
PORTLAND, OR 97205

EXAMINER	
THAI, SUSAN	

ART UNIT	PAPER NUMBER
1724	

MAIL DATE	DELIVERY MODE
03/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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3/22/11

wk

Mailed :
In re Application of : DECISION ON
Ding et al. : PETITION
Serial No. 11/757,684 :
Filed: June 4, 2007 :
For: **SYSTEM AND METHOD FOR IMPROVING ACCURACY OF A GAS SENSOR**

This is a decision on Applicants' request to withdrawn the restriction requirement made in the Office Action of September 28, 2010. The Examiner requested restriction between Group 1, claims 1-8 drawn to a method of operating an electrochemical sensor, classified in class 205, subclass 775; Group 2, claims 9-16, drawn to an electrochemical sensor, classified in class 204, subclass 411; and Group 3, claims 17-27, drawn to a method of operating an electrochemical sensor, classified in class 205, subclass 781. The Examiner determined that Inventions I and II and Inventions III and II were related as process and apparatus for its practice. Inventions I and II were classified as process of making and product made.

In Applicants' response filed December 28, 2010, Applicants traversed the requirement for restriction between Groups I and III, but did not traverse the requirements for restriction between Groups I and II and between Groups III and II. Applicants assert that the Examiners reasoning for the existence of a search burden included no detailed reasoning to the actual working of the claims and further assert the groups I and II include overlapping subject matter.

The Examiner made the restriction final on January 18, 2011. The Examiner stated that Groups I and II are methods that involve a different mode of operation such that Group III further requires an internal combustion engine, first internal cavity as well as a second internal cavity which are not required for Group I.

Every requirement to restrict has two aspects: (A) the reasons why each invention *as claimed* is either independent or distinct from the other(s); and (B) the reasons why there would be a serious burden on the examiner if restriction is not required.

Both Groups I and II are drawn to method claims and cannot be related as process of making and product made as stated by the Examiner. Applicants speculate that the Examiner meant to invoke MPEP 806.05(j) in requiring restriction between Groups I and III. It is not clear from the record what the Examiner intended to do.

11/757,684
DECISION

The petition is **GRANTED**.

The Restriction Requirement is withdrawn between Groups I and III. Applicants provisionally elected Group III with traverse. It is noted that Applicants have not traversed the restriction requirement between Groups I and II and Groups II and III. The Examiner is directed to issue a new office action reflecting the claims from both Groups I and III.

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

Donald J. Lewis
ALLEMAN HALL MCCOY RUSSELL & TUTTLE, LLP
806 S.W. BROADWAY, SUITE 600
PORTLAND OR 97205

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11 AUG 2010

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21971
WILSON, SONSINI, GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050

In re Application of :
WILEY *et al* :
Application No.: 11/757,705 :
Filing Date: June 4, 2007 :
Attorney Docket No.: 31169-703.301 :
For: METHOD FOR QUANTITATIVE MEASUREMENT OF GENE EXPRESSION FOR IDENTIFYING INDIVIDUALS AT RISK FOR BRONCHOGENIC CARCINOMA : **DECISION**

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 3, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of prior-filed applications.

The renewed petition is hereby **DISMISSED** without prejudice.

This is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6). The nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications are submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The subject petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international application designating the U.S. applications must contain or be amended to contain a reference to each such

prior-filed application, identifying it by application number and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional or international application.

In the renewed petition, applicants provided an amendment to the specification that properly states the relationship of the prior-filed international application to the subject application. The improper incorporation by reference statement has also been removed. However, U.S. Application No. 10/471,473, which is the national stage application of PCT/US2002/007259, does not have a proper 35 U.S.C. 119(e) reference to U.S. provisional application No. 60/275,854. The provisional application is not listed on the specification and an Application Data Sheet was not submitted. *See* 37 CFR 1.78(a)(5)(iii)(e).

Before the petition under 37 CFR § 1.78 can be granted, applicants must correct the benefit claim to the provisional application in the parent national stage application (U.S. Application No. 10/471,473).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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04859
MACMILLAN SOBRANSKI & TODD, LLC
One Maritime Plaza, Fifth Floor
720 Water Street
Toledo, OH 43604

MAILED

MAY 17 2011

PCT LEGAL ADMINISTRATION

In re Application of :
WILEY *et al* :
Application No.: 11/757,705 :
Filing Date: June 4, 2007 :
Attorney Docket No.: 31169-703.301 :
For: METHOD FOR QUANTITATIVE MEASUREMENT OF GENE EXPRESSION FOR IDENTIFYING INDIVIDUALS AT RISK FOR BRONCHOGENIC CARCINOMA :

DECISION

This is a decision on the second renewed petition under 37 CFR § 1.78, filed March 7, 2011, which has been treated as a renewed petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of a prior-filed provisional application.

The second renewed petition is hereby **DISMISSED** without prejudice.

This is a proper petition under 37 CFR 1.78(a)(6). The nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR §1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §119(e) and 37 CFR §1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR § .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 second renewed petition still does not comply with item (1). As discussed in the prior decision, U.S. Application No. 10/471,473, which is the national stage application of PCT/US2002/007259, does not have a proper 35 U.S.C. 119(e) reference to U.S. provisional application No. 60/275,854. Applicants submitted a petition under 37 CFR 1.78 in U.S. Application No. 10/471,473 concurrently with the subject petition on March

7, 2011. However, that petition has not been granted. Moreover, the supplemental Application Data Sheet (ADS) submitted with the subject petition erroneously lists, in the Domestic Benefit section thereof, the PCT number as PCT/US09/07259 instead of PCT/US02/07259.

To correct the benefit claim in the instant case, Applicants must provide a grantable petition under 37 CFR 1.182 to correct the benefit claim to the provisional application in the parent national stage application (U.S. Application No. 10/471,473) and a renewed petition under 37 CFR 1.78(a)(6) in the present application correcting the erroneous international application number identified in the supplemental ADS.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

/Boris Milef/

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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FAY SHARPE LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115

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NOV 22 2010
OFFICE OF PETITIONS

In re Application of

Radkov, et al.

Application No. 11/757,748

Filed: June 4, 2007

Attorney Docket No. GLOZ 200394US01/223063

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 13, 2010, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,510.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 23, 2010. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 24, 2010. A Notice of Abandonment was mailed on July 12, 2010.

The issue fee and publication fee were received on September 13, 2010.

Form PTOL-85B, filed September 13, 2010, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BAKER BOTTS, LLP
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Janet A. Chollet, et al.
Application No. 11/757,787
Filed: June 4, 2007
Attorney Docket No. 077456.0109

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 request was signed by Sandra S. Lee on behalf of all attorneys of record who are associated with customer No. 21003. All attorneys/agents associated with the Customer Number 21003 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JANET A. CHOLLET
632 RACINE AVENUE
PITTSBURGH, PA 15216

cc: STEVE RACAMBOLI
C/O PEAR TREE PHARMACEUTICALS
1050 WINTER STREET
SUITE 1000, #007
WALTHAM, MA 02451

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
11/757,787	06/04/2007	Janet A. Chollet	077456.0109

CONFIRMATION NO. 3310

POWER OF ATTORNEY NOTICE

21003
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

OC000000045286029

Date Mailed: 01/05/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/22/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

2Nd req

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 6

DATE : 08/30/11

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/757,846 Patent No.: 7923373

CofC mailroom date: 04/26/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Nadine Norton — Nadine Norton — 1713

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Patent No.7,363,717 :
Issue Date: April 29, 2008 :
Application No. 11/757,873 : DECISION ON PETITION
Filed: June 4, 2007 :
Attorney Docket No. GYRO.008C1C1 :

This is a decision on the petition under 37 CFR 1.182, filed January 22, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

The Office of Data Management is directed to issue duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ms. Kimberly Terrell, Office of Data Management, Phone: 703-756-1645.

A copy of this decision is being faxed to Publishing Division for issuance of duplicate Letters Patent.

/Charlema Grant/
Charlema Grant
Petitions Attorney
Office of Petitions

cc: Ms. Kimberly Terrell, Office of Data Management, Fax: 571-270-9958.

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.
11/757,948	06/04/2007	Sai Sundar Selvaganesan	YAH1P061/Y01935US00	3635

7590 09/20/2010

Weaver Austin Villeneuve & Sampson - Yahoo!
P.O. BOX 70250
OAKLAND, CA 94612-0250

EXAMINER	
PEACH, POLINA G	

ART UNIT	PAPER NUMBER
2165	

NOTIFICATION DATE	DELIVERY MODE
09/20/2010	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
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

Paper No.

DERGOSITS & NOAH LLP
Three Embarcadero Center
Suite 410
SAN FRANCISCO CA 94111

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Julie Lewis, Patricia Gardner,	:	DECISION ON PETITION
and Dominik Kacprzak	:	PURSUANT TO
Application No. 11/757,989	:	37 C.F.R. § 1.183
Filed: June 4, 2007	:	
Attorney Docket No. 1211.02	:	
Title: METHOD AND APPARATUS FOR PROCESSING HETEROGENEOUS DATA	:	

This is in response to the petition filed pursuant to 37 C.F.R. § 1.183 on May 25, 2010. Petitioner seeks the entry of a concurrently filed Rule 1.131 declaration, and seeks the waiver of the requirement present in 37 C.F.R. § 1.131 that each of the inventors sign the declaration of prior inventorship.

This petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED.**

BACKGROUND

The above-identified application was filed on June 4, 2007, with a 37 C.F.R. § 1.63 declaration signed by each of the three joint inventors. On June 9, 2009, a non-final Office action was mailed. As part of the response to this Office communication, Applicants filed a "DECLARATION OF JULIE LEWIS PURSUANT TO 37 CFR § 1.131," so as to attempt to overcome certain rejections contained therein. A final Office action was mailed on January 25, 2010, which indicated, *in pertinent part*, that the aforementioned Rule 1.131 declaration could not be accepted as was not properly executed, *i.e.* signed by each of the three joint inventors.

With this petition, Petitioner has submitted two Rule 1.131 declarations, one signed by Ms. Lewis and one signed by Mr. Kacprzak. A Rule 1.131 declaration that has been executed by Ms. Gardner has not been included with this petition.

Petitioner has filed this petition, seeking the acceptance of the two Rule 1.131 declarations, without a Rule 1.131 declaration that has been executed by joint inventor Gardner: Petitioner has indicated that the signature of joint inventor Gardner has not been obtained, and has suggested that she has refused to execute the same.[1]

RELEVANT REGULATIONS AND PORTION OF THE MPEP

37 C.F.R. § 1.183 sets forth, *in toto*:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 C.F.R. § 1.131(a) sets forth, *in pertinent part*:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, MPEP § 715.04(I)(B) sets forth, *in toto*:

> An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

ANALYSIS

Here, there has not been a party qualified under 37 C.F.R. §§ 1.42, 1.43, or 1.47. In addition, Petitioner does not contend that less than all of the named inventors of the

1 Petition, page 2.

application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the revised Rule 1.131 declaration include all of the joint inventors.

This petition cannot be granted, as Petitioner has not asserted, much less established, the existence of an extraordinary situation such that justice requires the waiver of the requirement that the Rule 1.131 declaration be executed by each joint inventor.

On renewed petition, Petitioner will need to assert the existence of an extraordinary situation, such that justice requires the waiver of the requirement that each inventor must execute the Rule 1.131 declaration.

Petitioner will note that Rule 1.47(a) is not directly applicable to the current set of facts, however it does involve a parallel set of circumstances - the unavailability of an inventor.

It does not appear that a complete copy of the application was sent to the last-known address of Ms. Gardner. Where a refusal of an inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[2] Since the petition is silent as to any presentation of the application to the non-signing joint inventor, the fourth requirement has not been met.

It follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before this petition is granted since such a procedure ensures that the non-signing inventor is apprised of the application to which the Rule 1.131 declaration is directed.

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2 See MPEP § 409.03(d).

Before filing the renewed petition, Petitioner should mail a complete paper copy[3] of the application to the non-signing joint inventor, and provide her with a reasonable period of time to respond. Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

Alternatively, if Petitioner is able to secure the signature of this individual on the Rule 1.131 declaration, the submission of the same would be considered fully responsive to this decision.

If Petitioner is not able to secure the signature of this individual on the Rule 1.131 declaration, Petitioner must then indicate the steps taken to obtain this individual's signature on the Rule 1.131 declaration.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.183." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered

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3 The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems. Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an e-mailed document was in a form that can be read and comprehended.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

6 (571) 273-8300 - please note this is a central facsimile number.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[8] 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

7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

Paper No.

JAN 24 2011

OFFICE OF PETITIONS

DERGOSITS & NOAH LLP
Three Embarcadero Center
Suite 410
SAN FRANCISCO CA 94111

In re Application of	:	
Julie Lewis, Patricia Gardner,	:	DECISION ON RENEWED
and Dominik Kacprzak	:	PETITION PURSUANT TO
Application No. 11/757,989	:	37 C.F.R. § 1.183
Filed: June 4, 2007	:	
Attorney Docket No. 1211.02	:	
Title: METHOD AND APPARATUS FOR	:	
PROCESSING HETEROGENEOUS DATA	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.183, filed on January 3, 2011. Petitioner seeks the entry of a concurrently filed Rule 1.131 declaration.

The above-identified application was filed on June 4, 2007, with a 37 C.F.R. § 1.63 declaration signed by each of the three joint inventors. On June 9, 2009, a non-final Office action was mailed. As part of the response to this Office communication, Applicants filed a "DECLARATION OF JULIE LEWIS PURSUANT TO 37 CFR § 1.131," so as to attempt to overcome certain rejections contained therein. A final Office action was mailed on January 25, 2010, which indicated, *in pertinent part*, that the aforementioned Rule 1.131 declaration could not be accepted as it was not properly executed, *i.e.* signed by each of the three joint inventors.

An original petition pursuant to 37 C.F.R. § 1.183 was filed on May 25, 2010. Petitioner sought the entry of two concurrently filed Rule 1.131 declarations, along with the waiver of the requirement present in 37 C.F.R. § 1.131 that each of the inventors sign the declaration of prior inventorship. Petitioner submitted two Rule 1.131 declarations, one signed by Ms. Lewis and one signed by Mr. Kacprzak. A Rule 1.131

declaration that has been executed by Ms. Gardner was not included with the original petition. The original petition was dismissed via the mailing of a decision on December 13, 2010.

With this renewed petition, Petitioner has included a Rule 1.131 declaration that has been executed by formerly non-signing joint inventor Gardner.

It follows that each of the three joint inventors has executed the Rule 1.131 declaration. Accordingly, this renewed petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED AS MOOT.**

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FEB 04 2011

OFFICE OF PETITIONS

COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

In re Patent No. 7,854,846 :
Issue Date: December 21, 2010 :
Application No. 11/758,200 : NOTICE
Filed: June 5, 2007 :
Patentee(s): Robert L. Goldsmith, et. al. :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on November 26, 2010.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO CA 94303

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Pelrine et al.	:	DECISION ON PETITION
Application No. 11/758,409	:	TO WITHDRAW
Filed: June 5, 2007	:	FROM RECORD
Attorney Docket No. ARMUNS00100	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 2010.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the **entire interest** *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. *See* **Change In Procedure For Requests To Withdraw From Representation In A Patent Application 1329 OG 99 (April 8, 2008).**

Further, 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw. Additionally, it is noted that Bayer Material Science LLC is not the assignee of the entire interest. A review of USPTO records reveals that Bayer Material Science LLC is an assignee of 50% interest and SRI International is an assignee of 50% interest. The combination of all partial assignees with ownership interest is required to conduct prosecution of an application.

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 August 20, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENE N.W.
WASHINGTON DC 20005

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application :
Thomas D. Reed :
Application No. 11/758,422 : DECISION ON APPLICATION
Filed: June 5, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. :
2584.0290001/RWE/GER

This is in response to the "Request For Reconsideration Of Patent Term Adjustment Determination Under 37 C.F.R. § I.705(b)" filed March 2, 2011. Applicant requests that the determination of patent term adjustment be corrected from 192 days to 404 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **DISMISSED**.

On November 23, 2009, Applicants filed a response to the Restriction Requirement mailed September 25, 2009. Thereafter, a Notice of Non-Compliant Amendment was mailed December 10, 2009 to which Applicants filed a response on February 25, 2009 and and an extension of time on March 10, 2010. Applicants argue that the correct period of adjustment for the response filed February 25, 2009 and the extension of time filed March 10, 2010 was 75 days not, 107 days as was determined by the office.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

It is undisputed that a reply was filed on November 23, 2009 however, that reply had an omission and the omission was corrected on February 25, 2009 and March 10, 2010 over one hundred seven (107) days after the filing of the initial response on November 23, 2009. Therefore the reduction is proper.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 192 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
AUSTIN TX 78701

MAILED

AUG 04 2011

OFFICE OF PETITIONS

In re Application of :
Monty Kerr et al. :
Application No. 11/758,452 : DECISION ON PETITION
Filed: June 5, 2007 : TO WITHDRAW
Attorney Docket No. **RED5001US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 20, 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 to 37 CFR 10.40.

The request was signed by Monty Kerr on behalf of all attorneys of record who are associated with Customer Number 48746.

All attorneys/agents associated with Customer Number 48746 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 all future correspondence will be directed to the first named inventor Monty Kerr at the address indicated below.

There is an outstanding Office action mailed September 24, 2010, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Monty Kerr
11522 Heathrow Dr.
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MILSTEIN ZHANG & WU LLC
2000 Commonwealth Avenue, Suite 400
NEWTON MA 02466-2004

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SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Arjang Hassibi et al. :
Application No. 11/758,621 : DECISION ON PETITION
Filed: June 5, 2007 :
Attorney Docket No. **CIT-4652** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 14, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1636 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Joseph B. Milstein
49 Lexington Street, Suite 6
Newton, MA 02465-1062

UNITED STATES 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. : 7,884,262 B2
Ser. No. : 11/758,657
Inventor(s) : Clemente et al.
Issued : Feb. 8, 2011
Title : MODIFIED DMO ENZYME AND METHODS OF ITS USE
Docket No. : MONS:09US
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 03 2012

OFFICE OF PETITIONS

Johnson & Associates
317A East Liberty Street
Savannah GA 31401

In re Application of :
Johnson et al. :
Application No. 11/758,745 :
Filed: June 6, 2007 :
Attorney Dkt. No. CITI-0315 :
For: METHODS AND SYSTEMS FOR MANAGING TRANSACTION CARD ACCOUNTS :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed December 22, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from two hundred fifty-three (253) days to three hundred forty-six (346) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG &
WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Amnon Silverstein :
Application No. 11/758,801 : DECISION ON PETITION
Filed: June 6, 2007 : TO WITHDRAW
Attorney Docket No. 2006-0791.00/US : 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 December 8, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that David R. Cochran and all attorneys/agents associated with customer number 21186 do 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.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ZIEGLER IP LAW GROUP, LLC.
518 RIVERSIDE AVENUE
BUILDING B (Synergy)
WESTPORT CT 06880

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SEP 07 2011
OFFICE OF PETITIONS

In re Application of :
Berry et al. :
Application No. 11/758,821 : ON PETITION
Filed: June 6, 2007 :
Attorney Docket No. ACU.1400.DIV :

This is in response to the paper filed August 22, 2011 under 37 CFR 1.27(c), seeking status as a small entity. In addition, applicants request refund of fees paid at the large entity rate. The refund petition will be treated under 37 CFR 1.28(a).

The statement claiming small entity status has been made of record and small entity status has been accorded.

37 CFR 1.28(a) provides a three-month time period for requesting a refund of a portion of a non-small entity fee based on later establishment of small entity status. The start date of the three-month refund period of 37 CFR 1.28(a) is the date the full fee has been paid. See 37 CFR 1.28(b)(1).

On May 23, 2011, applicants paid a three month large entity extension of time fee under 37 CFR 1.136(a) of $1,110.00. On August 22, 2011, applicants filed the present correspondence, seeking status as a small entity and requesting a refund of $555.00. Since the assertion of small entity status and the request for refund were filed within three months of the payment of the fee, they were timely filed.

Accordingly, the request for refund is **granted**. Applicants' credit card will be credited $555.00.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Docket No.: 18962-202006/P5959USD5
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
William J. JOHNSON

Application No.: 11/758,912

Confirmation No.: 5326

Filed: June 6, 2007

Art Unit: 3664

For: SYSTEM AND METHOD FOR INTERNET CONNECTED SERVICE PROVIDING HETEROGENEOUS MOBILE SYSTEMS WITH SITUATIONAL LOCATION RELEVANT CONTENT

Examiner: Jorge O. Peche

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the expansion and extension of the Patent Application Backlog Reduction Stimulus Plan ("Project Exchange") published in 75 Fed. Reg. 36063 (June 24, 2010), Applicant requests that this application ("'912 application") be accorded special status for examination.

The conditions of Project Exchange are satisfied in connection with this request as follows:

- Special status is being sought for the '912 application based on the express abandonment of copending U.S. Patent Application No. 12/002,148 ("'148 application"), filed December 14, 2007, and entitled "INTERACTIVE AND DYNAMIC SCREEN SAVER FOR USE IN A MEDIA SYSTEM." A copy of a

Letter of Express Abandonment that is being concurrently filed in the '148 application is attached in the Appendix;[1]

- The '912 application and the '148 application are commonly owned by Apple Inc., a California corporation with a place of business at 1 Infinite Loop, Cupertino, California 95014;
- Applicant has not filed petitions in more than fourteen other applications requesting special status under Project Exchange; and
- Applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the '912 application are directed to two or more independent and distinct inventions.

Although the fee for this petition is waived under Project Exchange, the Commissioner is authorized to charge any fee due in connection with this filing to Deposit Account No. 03-1952 referencing docket no. 106842802900.

Dated: 10/1/10

Respectfully submitted,

APPLE INC.

By _____

Brett Alten
Registration No.: 42,258
Attorney of Record
Customer No. 26183
(408) 974-6524

Attachment

[1] This petition is submitted under the assumption that the conditions of Project Exchange can be met in connection with this request. Should the Office determine that the conditions of Project Exchange cannot be met in connection with this request (e.g., due to the 10,000-application limit having been reached), please disregard this Petition and notify the undersigned.

APPENDIX

Docket No.: P5515US5
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Duncan R. KERR et al.

Application No.: 12/002,148 | Confirmation No.: 5227

Filed: December 14, 2007 | Art Unit: 2179

For: INTERACTIVE AND DYNAMIC SCREEN SAVER FOR USE IN A MEDIA SYSTEM | Examiner: Phenuel S. Salomon

WRITTEN DECLARATION OF EXPRESS ABANDONMENT

PURSUANT TO 37 CFR 1.138(a) IN EXCHANGE FOR

SPECIAL STATUS IN U.S. PATENT APPLICATION NO. 11/758,912

Mail Stop EXPRESS ABANDONMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the expansion and extension of the Patent Application Backlog Reduction Stimulus Plan ("Project Exchange") published in 75 Fed. Reg. 36063 (June 24, 2010), Applicants request that this application ("'148 application") be expressly abandoned as of the filing date of this paper.

The conditions of Project Exchange are satisfied in connection with this request as follows:

- the '148 application is being expressly abandoned in exchange for special status being accorded for U.S. Patent Application No. 11/758,912 ("'912 application"), filed June 6, 2007, and entitled "SYSTEM AND METHOD FOR INTERNET CONNECTED SERVICE PROVIDING HETEROGENEOUS MOBILE SYSTEMS WITH

SITUATIONAL LOCATION RELEVANT CONTENT." A Petition to Make Special under 37 CFR 1.102 is being filed concurrently herewith in the '912 application;[1]

- Applicants have not and will not file an application that claims the benefit of the '148 application under any provision of title 35, United States Code;
- Applicants agree not to request a refund of any fees paid in the '148 application; and
- Applicants have not and will not file a new application that claims the same invention claimed in the '148 application (the phrase "same invention" having the same meaning as used in the context of statutory double patenting under 35 USC 101).

Although no fee is believed due for this petition, the Commissioner is authorized to charge any fee due in connection with this filing to Deposit Account No. 03-1952 referencing docket no. 106842802900.

Dated: 10/1/10

Respectfully submitted,

APPLE INC.

By _____

Brett Alten
Registration No.: 42,258
Attorney of Record
Customer No. 82427
(408) 974-6524

[1] This declaration is submitted under the assumption that the conditions of Project Exchange can be met in connection with this request. Should the Office determine that the conditions of Project Exchange cannot be met in connection with this request (e.g., due to the 10,000-application limit having been reached), please disregard this declaration and notify the undersigned.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
JOHNSON :
Application No. 11/758,912 :
Filed: June 6, 2007 :
Attorney Docket No. **18962-202006/P5959USD5** :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed October 5, 2010, to make the above-identified application special under the Patent Application Backlog Reduction Stimulus Plan which is a pilot program set forth at 74 Federal Register Notice 62285 (November 27, 2009) and 75 Federal register Notice 36063 (June 24, 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 62285 and 75 FR 36063 must be directed to a nonprovisional application filed prior to October 1, 2009.

The USPTO will accord special status for examination under Patent Application Backlog Reduction Stimulus Plan under the following conditions:

(1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009;

(2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53;

(3) The application for which special status is sought and the other copending nonprovisional application either are owned by the same party as of October 1, 2009, or name at least one inventor in common;

(4) The applicant files a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination and

a) include a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application;

b) includes with the letter of express abandonment a statement that the applicant has not and will not file an application that claims the benefit of the

expressly abandoned application under any provision of title 35, United States Code, and

c) the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought that

a) includes a specific identification of the relationship between the applications that qualifies the application for special status;

b) identifies, by application number if available, the application that is being expressly abandoned;

c) provides a statement certifying that applicant has not filed petitions in more than fourteen (14) other applications requesting special status under this program; and

d) provides a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions.

The requirement for a fee for consideration of the petition to make special for applications pertaining to Patent Application Backlog Reduction Stimulus Plan has been waived.

The instant petition complies with the conditions required under Patent Application Backlog Reduction Stimulus Plan. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Brian W. Brown at 571-272-5338.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Office of Patent Application Processing for further processing commensurate with this decision.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY LLP
Attn: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

MAILED

AUG 10 2011

OFFICE OF PETITIONS

In re Application of Henrich et al. :
Application No. 11/758,955 : Decision on Petition
Filing Date: June 6, 2007 : Under 37 CFR 1.55(c)
Atty. Docket No. APPL-025/00US304068-2071 :

This is a decision on the petition under 37 CFR 1.55(c) filed July 7, 2011, which requests acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Application No. EP06012805 filed January 22, 2006.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a proper 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.

The petition fails to comply with requirement (2). In this regard, a review of the file record fails to indicate the priority information has been included in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14. A review of the file record fails to indicate the priority information was included in the original declaration and a supplemental declaration with the information has not been filed.

In view of the prior discussion, the petition cannot be granted. Any request for reconsideration should include a supplemental declaration or supplemental ADS[1] setting forth the foreign priority claim. Any request for reconsideration should also include a cover letter and be titled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] MPEP 601.05 states, "If no ADS was originally filed, but applicant wants to submit an ADS to correct, modify, or augment the original application data, the ADS, even though it is the first-filed ADS, must be titled 'Supplemental Application Data Sheet.'"

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

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APR 04 2011

OFFICE OF PETITIONS

DAVID AND RAYMOND PATENT FIRM
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

In re Application of :
Bingcheng LIN et al. : ON PETITION
Application No. 11/759,048 :
Filed: June 6, 2007 :
Atty. Docket No.: PCT/CN2005/002098 :

This is in response to the petition under 37 CFR 1.137(b), filed April 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed July 20, 2007, which set a statutory period for reply of two (2) months. No extensions of time under 37 CFR 1.136(a) were obtained. The application became abandoned on September 21, 2007, and a Notice of Abandonment was mailed April 1, 2008.

A grantable petition under 37 CFR1.137(b) must be accompanied by: (1) the proper reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including: (1) a reply in the form of replacement drawings, an abstract, sequence listing, sequence listing in computer readable form, and additional claim fees to the Notice to File Corrected Application Papers, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to the Office of Patent Application Processing for further processing of the application.

for David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/6/2011

TO SPE OF : ART UNIT 2895

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/759159 Patent No.: 7781352 B2

CofC mailroom date: 9/28/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Approved
/N. Drew Richards/ 2895

SPE **Art Unit**

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CHICAGO IL 60661

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SEP 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,995,457 : DECISION ON APPLICATION FOR
Issued: August 9, 2011 : PATENT TERM ADJUSTMENT
Application No. 11/759,203 :
Filing or 371(c) Date: June 6, 2007 :
Dkt. No.: 18404US02 :

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on September 26, 2011 requesting a decrease in patent term adjustment from 498 days to 607 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,995,457 on August 9, 2011. The patent issued with a patent term adjustment of 498 days. The instant application for patent term adjustment was timely filed September 26, 2011.

Patentee disputes the reduction of two days for application delay with respect to the reply filed September 27, 2010.

With respect to the applicant delay of two days, patentees' arguments have been carefully considered, but are hereby DISMISSED AS UNTIMELY.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the two day reduction contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed as untimely.

Patentee also disputes the 164 days accorded pursuant to 37 CFR 1.703(b) and assert that the correct period of adjustment in this regard is 271 days. Patentees' arguments have been considered, but not found persuasive.

35 USC 154(b)(1)(B) states in relevant part:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent

> within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) is 270 days, the period from March 4, 2011, the date that the RCE was filed, to August 9, 2011, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

However, the period consumed by appellate review, whether successful or not, is excluded from the calculation of adjustment under 37 CFR 1.703(b). 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 75 days, beginning on March 12, 2010, the date of filing of the notice of appeal and ending on June 25, 2010, the subsequent date of the non-final Office action. Thus, the period of adjustment for the Office's failure to issue the patent within three years of the application filing date is 164 days (270 days – 106 days).

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.

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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DALLAS TX 75265

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DEC 29 2011

OFFICE OF PETITIONS

In re Application of :
Badri Varadarajan et al :
Application No. 11/759,221 : DECISION ON PETITION
Filed: June 6, 2007 :
Attorney Docket No. TI-62585 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed March 3, 2011, 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 2611 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JAN 14 2011

OFFICE OF PETITIONS

In re Reissue Application of :
Tsugio Takahashi et al. :
Application No. 11/759,316 : ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. 7894-0002 :

This is a decision on the petition under 37 CFR 1.183 filed October 8, 2010, requesting waiver of 37 CFR §§ 1.67 and 1.172 [1] which require that the supplemental reissue declaration of October 8, 2010, have been executed by all of the inventors.

The petition is **GRANTED**.

BACKGROUND

1. U.S. Patent No. 5,604,697 issued to Takahashi et al. on February 18, 1997.

2. The instant application is a reissue continuation of reissue Application No. 11/176,881, filed July 8, 2005, which is a reissue continuation of reissue Application No. 09/974,962, filed on October 12, 2001, (now Reissue Patent RE 38,944), for reissue of U.S. Patent No. 5,966,341, filed as Application No. 08/982,398 on December 2, 1997, which is a continuation of Application No. 08,779,835, filed on January 7, 1997, (now U.S. Pat. No., 5,777,927), which is a continuation of Application No. 08/574,104, filed December 20, 1995 (now U.S. Pat. No. 5,604,697).

3. During the prosecution of the parent application, the Office required a supplemental reissue declaration directed to errors in the original patent which had been corrected in the application after the signing of the original reissue declaration.

4. On May 10, 2010, a final Office action was mailed in the instant application, finding that the reissue declaration signed by joint inventors Takahashi et al. was defective, as follows:

---

[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.

> In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed. Claims 10-12 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above. Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175 (b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows: "Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant." See MPEP § 1414.01. The amendment to the claims (see claim 10) filed on 10/15/09 which requires a supplemental declaration.

5. On October 8, 2010, with a two month extension of time, a submission including a supplemental declaration was filed in response to the May 10, 2010 final Office action. The supplemental declaration is signed by joint inventors Kitsukawa and Nakamura and provides a showing that the Supplemental Reissue Declaration was forwarded to the last known addresses of joint inventors Takahashi, Akiba and Kawase, but as of the filing of the petition, executed Supplemental Declarations from the remaining three inventors had not been received

DECISION

37 CFR 1.172 requires that a reissue declaration or oath be made (and signed) by the inventors, except as otherwise provided (37 CFR §§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. In addition, 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit **a supplemental oath or declaration** stating that every such error arose without any deceptive intention on the part of the applicant." [Emphasis added]

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires that a supplemental oath or declaration be signed by the inventor(s). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signatures of the inventors.

In the present instance, the petition provides a sufficient showing that, while efforts

have been employed to have the supplemental declaration signed by all of the inventors, those efforts have been unsuccessful. 37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested, via the present petition, a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by all of the inventors.

The instant petition, via the supporting declaration of Julie L. Reed, provides an appropriate and sufficient showing that despite efforts to have joint inventors Takahashi, Akiba and Kawase sign the supplemental declaration, joint inventors Takahashi, Akiba and Kawase refuse to do so. Accordingly, the rules are hereby waived to the extent that the "Supplemental Reissue Application Declaration" submitted with the present petition will be accepted as though it was signed by all of the inventors as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

CONCLUSION

1. The petition under 37 CFR 1.183 is granted to waive the rules to the extent stated in this decision.

2. The provisions of 37 CFR 1.175(b)(1), and 37 CFR 1.172 are hereby waived to the extent that the October 8, 2010, "Supplemental Reissue Application Declaration" submitted with the present petition will be accepted as though it was signed by all of the inventors.

3. The present application is being forwarded to Technology Center 2824 for further examination.

4. Any questions regarding this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kenneth M. Schor/

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

1-11-11
kenpet8

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OFFICE OF PETITIONS

In re Application of :
Jan Boris PHILIPP, et al :
Application No. 11/759,446 : DECISION ON PETITION
Filed: June 7, 2007 : TO WITHDRAW
Attorney Docket No. 6343-054 : 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 25, 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 cannot be approved because the correspondence address is not that of an assignee of the entire interest who has properly become of record as set forth in 37 CRF 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/759,451	06/07/2007	Ping Jiang	TI-61124	6318

23494 7590 08/13/2010

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

EXAMINER	
SENE, PAPE A	

ART UNIT	PAPER NUMBER
2812	

NOTIFICATION DATE	DELIVERY MODE
08/13/2010	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):

uspto@ti.com

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In re Application of:
Jiang et al.
Serial No.: 11/759,451
Filed: June 7, 2007
Attorney Docket No.: TI-61124

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2010, requesting that the examiner's denial of entry of the after-final amendment filed December 8, 2009 be reversed. The petition is before the TC Director of Technology Center 2800 for review.

The petition **GRANTED** .

BACKGROUND

A final Office action was mailed on 08 September, 2009. At the time this final Office action was mailed, claims 2-5, 7-9, 11-16 and 19-23 were pending. Claims 2-4, 9, 11-13, 15 and 20-22 were finally rejected under 35 under 35 U.S.C. 103(a) as being unpatentable over Arita et al. (USPGPUB 2005/0245075) in view of Usami et al. (USPGPUB 2006/0216946) , claims 5, 8, 16, 19 and 23 were finally rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al. (USPGPUB 2005/0245075) in view of Usami et al. (USPGPUB 2006/0216946) and Li et al. (US Patent 6,284,149), and claims 7 and 14 were finally rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al. (USPGPUB 2005/0245075) in view of Usami et al. (USPGPUB 2006/0216946) and Chen et al. (USPGPUB 2005/0191855).

An after-final amendment under 37 CFR 1.116 was filed on December 8, 2009, seeking to amend the specification primarily to change the term "Via 132" to --Trench 132-- in paragraph 35 and to change the term "via and trench 131" simply to --via 131-- in paragraph 37.

An Advisory Action was mailed on January 13, 2010, wherein the examiner denied entry of the after-final amendment on the grounds that the amendment(s) would effectively change the definitions of the words "via" and "trench" as used in the Applicant's specification, which were previously considered by the Examiner to be interchangeable and substantially equivalent terms.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.113(a) states in part that:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's, or for ex parte reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Director in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an inter partes reexamination filed under § 1.913, see § 1.953.
>
> .....
>
> (c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

37 C.F.R. § 1.116(a) and (b) state that:

> (a) An amendment after final action must comply with § 1.114 or this section.
> (b) 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):
>
> > (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;
> > (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or
> > (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

37 C.F.R. § 1.181 (f) states:

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. *Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.* (emphasis added)

M.P.E.P. § 714.12 states in part that:

> Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be

considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments filed after a final rejection, but before or on the date of filing an appeal, complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Amendments filed after the date of filing an appeal may be entered if the amendment complies with 37 CFR 41.33. See MPEP § 1206. Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § 1206.

M.P.E.P. § 714.13, II. Entry Not a Matter of Right, states in part that:

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.

Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection. An affidavit or other evidence filed after a final rejection, but before or on the same date of filing an appeal, may be entered upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e). See 37 CFR 41.33 and MPEP § 1206 for information on affidavit or other evidence filed after appeal.

Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment. A reply under 37 CFR 1.113 is limited to:

(A) an amendment complying with 37 CFR 1.116;

(B) a Notice of Appeal (and appeal fee); or

(C) a request for continued examination (RCE) filed under 37 CFR 1.114 with a submission (i.e., an amendment that meets the reply requirement of 37 CFR 1.111) and the fee set forth in 37 CFR 1.17(e). RCE practice under 37 CFR 1.114 does not apply to utility or plant patent applications filed before June 8, 1995 and design applications.

.....

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions. See also MPEP § 1206 and § 1211.

OPINION

Petitioner asserts that the amendment filed under 37 CFR 1.116 was made in order to "place the application in better form for appeal" primarily by correcting "errors in the usage of terms consistent with their usage elsewhere in the specification and consistent with the reference numerals used therefor in the drawings". 37 CFR 1.116 (b)(2) allows entry of an amendment "presenting rejected claims in better form for consideration on appeal", not the application in better form for appeal as asserted. Nevertheless, it is believed that an amendment to the specification only that would correct minor inconsistencies of language usage without adding

new matter may have the effect of indirectly presenting rejected claims in better form by simplifying the job of claim interpretation and therefore should be entered pursuant to 37 CFR 1.116 (b)(2).

Upon review of the prosecution history, Examiner had interpreted the terms "via" and "trench" as interchangeable or equivalent terms for conductive paths formed in semiconductor substrates for the following reasons. In, paragraph 35 of the Applicant's disclosure item 132 was referred to as a "via" and elsewhere a dissimilarly narrow structure item 130 was also referred to as a "via", and in paragraph 37 a structure item 131 that appeared to be substantially the same as via 130 was referred to as "via and trench". Also, Applicant's figure 1E shows the "via" 132 structure being created by "trench resist" item 110, and figure 1C shows "via and trench" 131 being created by "via resist" 107. Examiner also viewed the plain meaning of the terms "via" and "trench" to be substantially the same as a "groove" as discussed in the Advisory Action.

Together, the inconsistencies in the disclosure along with plain meaning assumption led the Examiner to believe trenches and vias were interchangeable or equivalent items.

A reasonable Examiner would have viewed these factors differently.

It is clear from the nature of the invention that Applicant intended to create a buried via hardmask structure before creating a trench hardmask overtop the via as detailed in the invention summary and description. In the series of figures, a via resist is used to create a via hardmask (figures 1B and 1C), the via hardmask is subsequently buried under a dielectric (figures 1D and 1E), a trench hardmask is then formed over the buried via hardmask (figure 1E), finally, the trench and via are together etched out of the underlying layers (figures 1F to 1J).

The terms Applicant applied to items 132 and 131 are indeed incongruent with other features and language in the disclosure but this should have prompted a reasonable Examiner to conclude they were in error rather than evidence of broader meaning. This should have been clear given the nature of the invention and terms applied to related structures. A reasonable Examiner should have come to the same conclusion as Applicant in suggesting corrected terms for items 131 and 132. Item 131 is clearly a via being created by "via resist" 107 and item 132 is clearly a trench being subsequently created by trench resist 110.

As to the plain meaning of the terms "via" and "trench", it does not appear that Examiner relied on any particular source for clear definitions but relied instead on the appearance of the structures in Applicant's and other applied prior art reference drawings showing only cross sections. The cross sections of vias and trenches both appear to be grooves in the various layers.

Appearances notwithstanding, a reasonable Examiner would have looked to other resources to determine if art recognized meaning applied over plain meaning or assumptions of meaning. Hereto, a reasonable Examiner should have come to a different conclusion. The ordinary usage of the terms within the semiconductor art would not suggest that the terms "via" and "trench" are interchangeable. Based upon a review of the prior art in EAST and IEEE databases, the term "via" universally applies to a conductive structure as a point interconnect through a layer or

layers and a "trench" as a line interconnect across or transverse to the layer depth, the two often constructed connected together in a combined process. They are not both simply grooves.

Examiner's choice to interpret the terms "via" and "trench" more broadly and interchangeably is not reasonable given the nature of the Applicant's invention, based on other usage of the terms in the Applicant's disclosure and based on a person of ordinary skill's understanding of the terms in the art.

Regarding the issue of the amendment presenting rejected claims in better form for consideration on appeal, it is concluded that the corrections to the specification language to correct minor errors have the effect of indirectly presenting rejected claims in better form by simplifying the job of claim interpretation. Furthermore, per 37 C.F.R. 1.181 (f), the petition was timely filed on March 8, 2010 within two months of the January 13, 2010 Advisory Action denying entry of the After Final Amendment. The petition to direct the examiner to enter the amendment filed December 8, 2009 is granted.

Any request for reconsideration of this decision must be filed within two months of the date of this decision. Extension of this time is governed by 37 CFR 1.136(a).

The above-identified application is being referred to the examiner to prepare and mail a corrected Advisory Action. Applicant is reminded that the time for filing an appeal brief continues to run from the date of the notice of appeal filed March 8, 2010.

Any inquiry regarding this decision should be directed to Charles Garber, Supervisory Patent Examiner at 571-272-2194.

Edward Lefkowitz, Acting Director
Technology Center 2800

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AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
William McCulloch, et al.	:	
Application No. 11/759,471	:	DECISION ON PETITION
Filed: June 7, 2007	:	TO WITHDRAW
Attorney Docket No. 12827-016-999	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 23, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Choate, Hall & Stewart has been revoked by the assignee of the patent application on July 19, 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: **JONES DAY**
222 E 41st Street
New York, NY 10017

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OFFICE OF PETITIONS

In re Application of :
Eugene S. DUDASH, et *al.* :
Application No. 11/759,519 : DECISION ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. **LEAR 44791 PUS** :

This is a decision on the petition, filed June 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 timely pay the issue and publication fees on or before June 1, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 1, 2010.

Petitioner asserts that the Notice dated March 1, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**. The $540 petition fee submitted on June 11, 2010 is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to the Technology Center AU 3636 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of March 1, 2010. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

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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Jellett Law,PS
Matthew Jellett, Esq.
910 Harris Ave
Suite A205
BELLINGHAM, WA 98225

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Chong Ng :
Application No. 11/759,535 : DECISION ON PETITION
Filed: June 7, 2007 : TO WITHDRAW
Attorney Docket No. **P518016PAT** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 12, 2011.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 62772 has been revoked by the applicant of the patent application on April 5, 2011. Therefore, practitioners no longer have power in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: HUGHES LAW FIRM, PLLC
5160 Industrial Place,#107
Ferndale WA 98248-7819

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.
11/759,548	06/07/2007	Randall J. Penning	3655/0295PUS1	6485

47827 7590 08/16/2011

MUNCY, GEISSLER, OLDE & LOWE, PLLC
4000 LEGATO ROAD, SUITE 310
FAIRFAX, VA 22033

EXAMINER	
CATTUNGAL, AJAY P	

ART UNIT	PAPER NUMBER
2467	

MAIL DATE	DELIVERY MODE
08/16/2011	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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AUG 15 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Scott T. Wakeman
MUNCY, GEISSLER, OLDE & LOWE, PLLC
4000 LEGATO ROAD, SUITE 310
FAIRFAX VA 22033

In re Application of: PENNING, Randall, J. et. al.
Application No. **11/759,548**
Filed: June 07, 2007
Docket No. 3655/0295PUS1
Title: TELEPHONE STATION INCORPORATING WIRELESS HANDSET AND CRADLE FEATURE

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on May 18, 2011 under 37 CFR § 1.181(a)(3) requesting Review by Supervisory Patent Examiner pursuant to MPEP §707.02.

The petition is **DISMISSED AS MOOT**.

Supervisory Patent Examiner (SPE) of the Examiner prosecuting the above-mentioned application was advised of Petitioner's request. Accordingly, office action mailed August 11, 2011 has been signed by the Examiner's SPE upon review and consideration of the issues noted in the request.

Accordingly, the petition is **DISMISSED AS MOOT**.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Christopher C. Grant, Quality Assurance Specialist, can be reached at (571) 272-7294.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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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

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application:
Jae Keun Lee et al.
Application No. 11/759,596
Filed: June 7, 2007
Attorney Docket No. 309981US8

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 3777.

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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ROSSI, KIMMS & MCDOWELL LLP
20609 GORDON PARK SQUARE
SUITE 150
ASHBURN, VA 20147

MAILED
NOV 28 2011
OFFICE OF PETITIONS

In re Application of :
Yasuo KOMADA :
Application No. 11/759,613 : DECISION ON PETITION
Filed : June 7, 2007 :
Attorney Docket No. CANO-0534 :

This is in response to the renewed petition under 37 CFR 1.59(b), filed November 7, 2011, to expunge information submitted under MPEP 724.05(II).

The petition is **DISMISSED AS MOOT.**

Petitioner asserts that upon review of the EFS-filed documents, The Response to Notice of Non-Compliant Amendment (8 pages), filed November 4, 2011, was meant to be filed for US Patent Application No. 10/350,096 (Attorney Docket No. IMMU-0005US2) and that there is no such document for the instant application. As such, Applicant submits that the Non-Compliant Amendment be expunged.

In response,

MPEP 502 states:

> A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number.

MPEP 724.05 (III) states:

> Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g., application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

The Notice of Non-Compliant Amendment, filed November 4, 2011, via EFS-web were filed with the correct Application Number, Attorney Docket number, title of invention, and inventor's name. Accordingly, the papers provided enough identifying indicia for the Office to transfer the papers to the correct application file, 10/350,096.

As the papers filed November 4, 2011 have already been filed in the correct application, they are being expunged in 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 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).

Since the transfer of papers to the correct application file does not require a petition, Petitioner's $200 petition fee will be refunded in due course to petitioner's credit card.

Telephone inquiries regarding this decision should be directed to Joanne Hama, at 571-272-2911, or in her absence, David Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 2625 for further processing.

David Bucci
Petitions Examiner
Office of Petitions

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MAILED
JUN 03 2011
OFFICE OF PETITIONS

JEFFERSON IP LAW, LLP
1130 CONNECTICUT AVE., N.W.
SUITE 420
WASHINGTON DC 20016

In re Application of
Jung-Chul Huh et al
Application No. 11/759,714
Filed: March 17, 2006
Attorney Docket No. 050925

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.182, filed April 25, 2011, which requests that the terminal disclaimer filed on March 29, 2011, be withdrawn.

The petition is **DISMISSED.**

Per the examiner, the terminal disclaimer does apply to at least one claim of record (Claim#) 9 and 15, because the scope of claim(s) 1 and 27 of the instant application are not patentably distinct from claim(s) 9 and 15 of the US-Patent application 10/951250, and the scope of the protection of claim(s) 1 and 27 of the instant application encompasses the scope of protection of claim(s) 9 and 15 of the US-Patent application 10/951250. The recorded terminal disclaimer remains applicable to one or more claims and should be retained.

Telephone inquiries should be directed to the undersigned at (571)272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JEFFERSON IP LAW, LLP
1130 CONNECTICUT AVE., NW
SUITE 420
WASHINGTON DC 20036

MAILED
JUL 26 2011
OFFICE OF PETITIONS

In re Application of
June-Chul Huh
Application No. 11/759,714
Filed: June 7, 2007
Attorney Docket No. 0202-0009

DECISION ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.182, filed July 5, 2011, which requests that the terminal disclaimer filed on March 29, 2011, be withdrawn.

The petition is **granted.**

Per the examiner, the terminal disclaimer does not apply to any claim currently of record because the application has not yet issued as a patent. A miscommunication between the applicants and the applicants' representative, a terminal disclaimer was erroneously filed on March 29, 2011.

In view of the above, the terminal disclaimer is hereby withdrawn.

Telephone inquiries should be directed to the undersigned at (571)272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OCT 20 2011

OFFICE OF PETITIONS

Paper No.

ANDREW VAN LUCHENE
1012 MARQUEZ PL #205A
SANTA FE NM 87505

In re Application of :
ANDREW VAN LUCHENE :
Application No. 11/759,745 : DECISION ON PETITION
Filed: June 7, 2007 : PURSUANT TO
Attorney Docket No.: 3111101 : 37 C.F.R. § 1.137(B)
Title: VIRTUAL PROFESSIONAL :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed October 6, 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 5, 2010, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 6, 2010. A notice of abandonment was mailed on July 6, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was

unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an election of species, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the election of species that was received on October 6, 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).

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	11759750
Filing Date	07-Jun-2007
First Named Inventor	Hayg-Taniel Dabag
Art Unit	2819
Examiner Name	JOSEPH LAUTURE
Attorney Docket Number	070648
Title	CIRCUIT AND METHOD FOR DYNAMICALLY SELECTING CIRCUIT ELEMENTS

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	/Ramin Mobarhan/
Name	Ramin Mobarhan
Registration Number	50182

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : August 22,2011

In re Application of :

Hayg-Taniel Dabag

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11759750

Filed : 07-Jun-2007

Attorney Docket No : 070648

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 22,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2819 for processing of the request for continuing examination under 37 CFR 1.114 .

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MAR 15 2012
OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP
PO BOX 29001
Glendale CA 91209-9001

In re Application of :
Atwater :
Application No. 11/759,752 : ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. **68629/C766**

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2012, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned on July 31, 2010, for failure to file a proper reply to the final Office action mailed April 30, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed January 14, 2011.

The Request for Continued Examination filed February 21, 2012, is noted.

The application file is being forwarded to Technology Center, GAU 1725 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Doc Code: PET.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	11759761
Filing Date	07-Jun-2007
First Named Inventor	Andy PETROVICH
Art Unit	1714
Examiner Name	RYAN COLEMAN
Attorney Docket Number	25P03.1-010
Title	SURGICAL CART WITH A MISTER

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 23506

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	Andy Petrovich
Address	505 Commerce Park Drive Suite G
City	Marietta
State	GA
Postal Code	30060
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Michelle E. Kandcer/
Name	Michelle E. Kandcer
Registration Number	54207

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 12,2011

In re Application of :

Andy PETROVICH

Application No : 11759761

Filed : 07-Jun-2007

Attorney Docket No : 25P03.1-010

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 12,2011

The request is **APPROVED.**

The request was signed by Michelle E. Kandcer (registration no. 54207) on behalf of all attorneys/agents associated with Customer Number 23506 . All attorneys/agents associated with Cusotmer Number 23506 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	Andy Petrovich
Name2	
Address 1	505 Commerce Park Drive
Address 2	Suite G
City	Marietta
State	GA
Postal Code	30060
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Yishin Chung, et al.
Application No. 11/759,807
Filed: June 7, 2007
Attorney Docket No. 2579.002US1

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 30, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on July 7, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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NOV 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Paul L. Ellegood	:	
Application No. 11/759,881	:	DECISION ON PETITION
Filed: June 7, 2007	:	
Attorney Docket No. 7503-005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 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 May 1, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 2, 2009. The Notice of Abandonment was mailed November 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2855 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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KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILLY VA 20153-1200

MAILED
AUG 13 2010
OFFICE OF PETITIONS

In re Application of :
Holjin Jeong :
Application No. 11/760,110 : DECISION GRANTING PETITION
Filed: June 8, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PBC-0073 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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) 272-3208.

This application is being referred to Technology Center AU 1712 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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MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Jack Pryor :
Application No. 11/760,111 : DECISION ON PETITION
Filed: June 8, 2007 :
Attorney Docket No. P1524DIV1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 2, 2009. Accordingly, the date of abandonment of this application is March 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 $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

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BERGHOFF LLP
300 S. WACKER DRIVE
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CHICAGO IL 60606

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Lavie et al.	:	DECISION ON APPLICATION
Application No. 11/760,399	:	FOR
Filed: June 8, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 02-134-G	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b," filed September 8, 2010. Applicants request that the initial determination of patent term adjustment be corrected from one hundred forty-eight (148) days to two hundred fifty-two (252) days.

The application for patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is two hundred fifty-two (252) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 8, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 148 days. On September 8, 2010, applicants timely[1] submitted an application for patent term adjustment. The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

[1] The Issue Fee payment was also received on September 8, 2010.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 148 days is incorrect.

Applicants dispute the reduction of 104 days of PTA for applicants' purported delay in filing a supplemental response on May 11, 2010. Applicants state that the response was filed at the request of the examiner and, therefore, no reduction is warranted.

Applicants' argument has been considered, and found persuasive. A non-final Office action was mailed on August 27, 20009. On January 27, 2010, applicants filed a response. On May 11, 2010, applicants filed a supplemental response. The record supports a conclusion that after applicants timely filed a proper reply on January 27, 2010, Examiner Yao requested that applicants file a supplemental reply.

On May 11, 2010, applicants filed a supplemental amendment including remarks concerning a May 5, 2010 interview with Examiner Yao. The REMARKS section states (in pertinent part), "Applicants wish to thank Examiner Yao for the courtesy extended during the telephonic interview on May 5, 2010. Upon the Examiner's request, Applicants herewith submit a Supplemental Amendment to the Claims. …"

While Examiner Yao never reduced to writing the request that applicants submit a supplemental reply, there is sufficient contemporaneous evidence in the record to support the conclusion that the May 11, 2010 supplemental reply was expressly requested by the examiner, within the meaning of §1.704(c)(8). It is noted that Examiner Yao *could have* contradicted the assertion that he requested the filing of the supplemental amendment during a May 5, 2010 interview in the subsequently mailed Notice of Allowability, but did not do so. Accordingly, no reduction is warranted. The period of reduction of 104 days is being removed

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is two hundred fifty-two (252) days.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in

the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR screen for Application No. 11/760,399

Patent eBusiness

- Electronic Filing
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- Fees
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11/760,399 — USE OF SPECIFICALLY ENGINEERED ENZYMES TO ENHANCE THE EFFICACY OF PRODRUGS

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Published Documents | Address & Attorney/Agent | Supplemental Content

Patent Term Adjustment

Filing or 371(c) Date:	06-08-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	313
A Delays:	313	PTO Manual Adjustments:	104
B Delays:	0	Applicant Delays:	165
C Delays:	0	Total PTA Adjustments:	252

Patent Term Adjustment History — **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
65	11-19-2010	Adjustment of PTA Calculation by PTO	104		0
53	06-08-2010	Mail Notice of Allowance	12		41
52	06-05-2010	Issue Revision Completed			0
51	06-05-2010	Document Verification			0
50	06-05-2010	Notice of Allowance Data Verification Completed			0
49	06-05-2010	Case Docketed to Examiner in GAU			0
48	05-11-2010	Examiner Interview Summary Record (PTOL - 413)			0
47	06-05-2010	Examiner's Amendment Communication			0
46	05-24-2010	Notice of Allowability			0
45	05-17-2010	Date Forwarded to Examiner			0
44	05-11-2010	Supplemental Response		104	41
43	01-27-2010	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
42	03-05-2010	Date Forwarded to Examiner			0
41	01-27-2010	Response after Non-Final Action		61	39
40	01-27-2010	Request for Extension of Time - Granted			0
39	08-27-2009	Mail Non-Final Rejection			0
38	08-26-2009	Non-Final Rejection			0
34	04-28-2008	Information Disclosure Statement considered			0
33	02-06-2008	Information Disclosure Statement considered			0
32	01-02-2008	Information Disclosure Statement considered			0
31	09-11-2007	Information Disclosure Statement considered			0
30	07-24-2009	Date Forwarded to Examiner			0
29	06-30-	Response to Election / Restriction Filed			0

	2009			
28	06-05-2009	Mail Restriction Requirement	301	-1
27	06-04-2009	Requirement for Restriction / Election		0
25	11-25-2008	Case Docketed to Examiner in GAU		0
24	04-28-2008	Information Disclosure Statement (IDS) Filed		0
23	04-28-2008	Information Disclosure Statement (IDS) Filed		0
22	02-06-2008	Information Disclosure Statement (IDS) Filed		0
21	02-06-2008	Information Disclosure Statement (IDS) Filed		0
20	01-02-2008	Reference capture on IDS		0
19	01-02-2008	Information Disclosure Statement (IDS) Filed		0
18	01-02-2008	Information Disclosure Statement (IDS) Filed		0
17	11-08-2007	PG-Pub Issue Notification		0
16	09-11-2007	Reference capture on IDS		0
15	09-11-2007	Information Disclosure Statement (IDS) Filed		0
14	09-11-2007	Information Disclosure Statement (IDS) Filed		0
13	08-17-2007	IFW TSS Processing by Tech Center Complete		0
12	06-08-2007	Preliminary Amendment		0
11	06-08-2007	Electronic Information Disclosure Statement		0
10	07-30-2007	Electronic Information Disclosure Statement		0
9	08-13-2007	Application Dispatched from OIPE		0
8	08-02-2007	Sent to Classification Contractor		0
7	08-03-2007	Application Is Now Complete		0
6	07-30-2007	Payment of additional filing fee/Preexam		0
5	06-27-2007	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	06-23-2007	Cleared by OIPE CSR		0
3	06-21-2007	CRF Is Good Technically / Entered into Database		0
2	06-20-2007	IFW Scan & PACR Auto Security Review		0
1	06-08-2007	Initial Exam Team nn		0

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- *Send general questions about USPTO programs to the USPTO Contact Center (UCC).*
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SHUMAKER & SIEFFERT, P.A
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WOODBURY MN 55125

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SEP 09 2010

OFFICE OF PETITIONS

In re Application of :
Gibbons et al. :
Application Number: 11/760,446 : ON APPLICATION FOR
Filed: 06/08/2007 : PATENT TERM ADJUSTMENT
Atty Docket No. :
1014-224US01/JNP-0804 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH," filed on March 1, 2010, which is treated as a request for reconsideration under 37 CFR 1.705(b).

In requesting reconsideration of the patent term adjustment in view of *Wyeth v. Kappos*, (No. 2009-1120, Fed. Cir., Jan. 7, 2010), applicants request reconsideration of the patent term adjustment to include the period of delay for failure of the Office to issue the patent within 3 years of the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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HOUSTON TX 77010

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In re Application of :
David Ballard : DECISION ON APPLICATION
Application No. 11/760,486 : FOR
Filed: June 8, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 05542/108002 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(B)," filed February 1, 2012. Applicants request that the initial determination of patent term adjustment be corrected from three hundred fifty-seven (357) days to four hundred ninety-eight (498) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is four hundred nineteen (419) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On January 23, 2012, 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 357 days. On February 1, 2010, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicant states that there should be no applicant delay with respect to the Information Disclosure

[1] The Issue Fee payment has not been received. The period for submitting the issue fee runs until April 23, 2012.

Statement filed June 15, 2011 as the IDS contained a 1.704(d) statement. Applicant states with respect to the IDS filed January 12, 2012 (actually January 13, 2012) that the applicant delay should be 71 days, not 109 days, as Office action submitted in the IDS was issued on November 4, 2011, no delay should be attributed to the application prior to November 4, 2011.

With respect to the IDS filed June 15, 2011, a review of the IDS as filed confirms that it included a § 1.704(d) statement. Accordingly, no reduction pursuant to 1.704(c)(8) was warranted. The reduction of 70 days has been removed.

However, prior to filing the IDS on June 15, 2011, applicant filed an IDS on April 14, 2011, after having filed a reply on April 6, 2011. The record does not support a conclusion that this IDS was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Further, the IDS did not include a §1.704(d) statement. Given the entry of the reduction for the IDS filed June 15, 2011, the patent term adjustment at the time of the mailing of the notice of allowance did not include this overlapping period of reduction. As the reduction associated with the June 15, 2011 IDS has been removed, there is no overlap. Pursuant to 37 CFR 1.704(c)(8), a period of reduction of 8 days is being entered for the filing of the IDS on April 14, 2011.

With respect to the IDS filed January 13, 2012, applicant's argument that the 109 day period of reduction for applicant delay should be removed is unavailing.

It is undisputed that applicant submitted an IDS on January 13, 2012, after filing an initial response to the June 24, 2011 Office action on September 26, 2011. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS reveals that applicant did not include a proper statement under 37 CFR 1.704(d). Thus, the IDS was filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. That is, pursuant to 37 CFR 1.704(c)(8) applicants filed a supplemental paper warranting entry of a period of reduction of 109 days for applicant delay. This period runs from the day after the date of filing of the initial reply to the date of filing of the supplemental paper. Absent compliance

with 37 CFR 1.704(d), this reduction is not affected by the date of issuance of the Office action cited in the IDS.

Further, there is no provision in the rules for the Office to accept a statement under § 1.704(d) which did not accompany (i.e., was not filed contemporaneously with) the IDS. Accordingly, the reduction of 109 days for applicant delay is proper and will not be removed.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is FOUR HUNDRED NINETEEN (419) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of 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.

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 adjusted PALM calculation

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11760486 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11760486

Application Filing Date	06/08/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	601
A Delays	601	PTO Manual Adjustment	62
B Delays	0	Applicant Delay (APPL)	244
C Delays	0	Total PTA (days)	419

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
102	03/14/2012		P028	Adjustment of PTA Calculation by PTO		8	0
101	03/14/2012		P028	Adjustment of PTA Calculation by PTO	70		0
86	01/23/2012		MN/=.	Mail Notice of Allowance			0
84	01/17/2012		OAR	Office Action Review			0
83	01/17/2012		OAR	Office Action Review			0
82	01/17/2012		IREV	Issue Revision Completed			0
81	01/17/2012		DVER	Document Verification			0
80	01/17/2012		N/=.	Notice of Allowance Data Verification Completed			0
79	01/17/2012		DOCK	Case Docketed to Examiner in GAU			0
77	01/17/2012		EX.A	Examiner's Amendment Communication			0
76	01/17/2012		CNTA	Allowability Notice			0
85	01/13/2012	09/26/2011	EIDS.	Electronic Information Disclosure Statement		109	66
78	01/13/2012		EIDS.	Electronic Information Disclosure Statement			0
72	01/13/2012		IDSC	Information Disclosure Statement considered			0
71	01/13/2012		WIDS	Information Disclosure Statement (IDS) Filed			0
73	12/15/2011		IDSC	Information Disclosure Statement considered			0
70	12/15/2011		RCAP	Reference capture on IDS			0
69	12/15/2011		EIDS.	Electronic Information Disclosure Statement			0
68	12/15/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
67	09/30/2011		FWDX	Date Forwarded to Examiner			0
66	09/26/2011	09/24/2011	A....	Response after Non-Final Action		2	62
65	06/24/2011		ELC_RVW	Electronic Review			0
64	06/24/2011		EML_NTF	Email Notification			0
62	06/24/2011		MCTNF	Mail Non-Final Rejection			0
61	06/20/2011		OAR	Office Action Review			0
60	06/20/2011		CTNF	Non-Final Rejection			0
63	06/15/2011	04/06/2011	EIDS.	Electronic Information Disclosure Statement		70	50
59	06/15/2011		IDSC	Information Disclosure Statement considered			0
57	06/15/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
56	06/13/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
55	04/14/2011		IDSC	Information Disclosure Statement considered			0
54	04/14/2011		EIDS.	Electronic Information Disclosure Statement			0
53	04/14/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
51	04/11/2011		FWDX	Date Forwarded to Examiner			0
52	04/06/2011		DIST	Terminal Disclaimer Filed			0
50	04/06/2011		A...	Response after Non-Final Action			0
49	01/06/2011		ELC_RVW	Electronic Review			0
48	01/06/2011		EML_NTF	Email Notification			0
47	01/06/2011		MCTNF	Mail Non-Final Rejection			0
46	01/03/2011		CTNF	Non-Final Rejection			0
45	11/12/2010		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
43	10/28/2010		FWDX	Date Forwarded to Examiner			0
44	10/22/2010	10/22/2010	DIST	Terminal Disclaimer Filed			42
42	10/22/2010		A...	Response after Non-Final Action			0
41	10/06/2010		DOCK	Case Docketed to Examiner in GAU			0
40	07/23/2010		ELC_RVW	Electronic Review			0
39	07/23/2010		EML_NTF	Email Notification			0
38	07/23/2010		MCTNF	Mail Non-Final Rejection			0
37	07/19/2010		CTNF	Non-Final Rejection			0
36	07/01/2010		IDSC	Information Disclosure Statement considered			0
33	07/01/2010	04/29/2010	EIDS.	Electronic Information Disclosure Statement		63	26
32	07/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
35	05/26/2010		IDSC	Information Disclosure Statement considered			0
31	05/26/2010		M844	Information Disclosure Statement (IDS) Filed			0
30	05/26/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
34	05/11/2010		IDSC	Information Disclosure Statement considered			0
29	05/11/2010		EIDS.	Electronic Information Disclosure Statement			0
28	05/11/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
27	05/04/2010		FWDX	Date Forwarded to Examiner			0
26	04/29/2010		ELC.	Response to Election / Restriction Filed			0
25	04/01/2010		ELC_RVW	Electronic Review			0
24	04/01/2010		EML_NTF	Email Notification			0
23	04/01/2010	08/08/2008	MCTRS	Mail Restriction Requirement	601		0.5
22	03/29/2010		CTRS	Restriction/Election Requirement			0
17	10/23/2008		IDSC	Information Disclosure Statement considered			0
16	10/23/2008		EIDS.	Electronic Information Disclosure Statement			0
15	10/23/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
14	01/08/2008		DOCK	Case Docketed to Examiner in GAU			0
13	12/29/2007		EML_NTR	Email Notification			0
12	12/27/2007		PG_ISSUE	PG Pub Issue Notification			0

8	10/30/2007	A.PE	Preliminary Amendment	0
7	10/16/2007	OIPE	Application Dispatched from OIPE	0
5	06/27/2007	COMP	Application Is Now Complete	0
6	06/26/2007	PGPC	Sent to Classification Contractor	0
4	06/19/2007	L194	Cleared by OIPE CSR	0
3	06/11/2007	SCAN	IFW Scan & PACR Auto Security Review	0
18	06/08/2007	IDSC	Information Disclosure Statement considered	0
10	06/08/2007	RCAP	Reference capture on IDS	0
9	06/08/2007	EIDS.	Electronic Information Disclosure Statement	0
2	06/08/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
1	06/08/2007	IEXX	Initial Exam Team nn	0
0.5	06/08/2007	EFILE	Filing date	0

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In re Application of	:	
James Arvo	:	
Application No. 11/760,504	:	ON PETITION
Filed: June 8, 2007	:	
Attorney Docket No. 021751-013910US	:	

This is a decision on the petition under 37 CFR 1.182, filed November 9, 2010, to change the name of the inventor.

The petition is **GRANTED**.

The name of the inventor has been changed from **Jim Arvo** to **James Arvo**.

The application file is being referred to the Office of Data Management for further processing.

Telephone inquiries regarding this decision may be directed to Kimberly Inabinet (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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
11/760,504	06/08/2007	2628	2680	021751-013910US	47	4

CONFIRMATION NO. 8299

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 12/06/2010

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)

James Arvo, Pasadena, CA;

Assignment For Published Patent Application

Pixar, Emeryville, CA

Power of Attorney: The patent practitioners associated with Customer Number 68218

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/812,306 06/09/2006

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/760,504**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

FILTERED SPECULAR REFLECTION OF LINEAR LIGHT SOURCES

Preliminary Class

345

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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MINNEAPOLIS MN 55440-1022

MAILED
NOV 25 2011
OFFICE OF PETITIONS

In re Patent No. 8,020,100
Issued: September 13, 2011
Application No. 11/760,614
Filed: June 8, 2007
Attorney Docket No: 18814-0086001 / P5540US1

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on November 14, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 756 to 768 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 SIX HUNDRED FIFTY days.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On September 13, 2011, the above-identified application matured into U.S. Patent No. 8,020,100 with a patent term adjustment of 756 days. On November 14, 2011, Patentees submitted the instant application. Patentees disclose that the patent term adjustment of 756 days indicated on the front of the patent is incorrect because "Patentees filed an Information Disclosure Statement on February 8, 2011, April 11, 2011 and on May 11, 2011, subsequent to a reply filed on January 25, 2011. Patentees were accorded 0 days delay for a supplemental response. In good faith and candor, Patentees submit that the supplemental responses should have been accorded a total Applicant Delay of 106 days for delay from January 25, 2011 to May 11, 2011. See 37 C.F.R. § 1.704(c)(8).

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 172 days (i.e., the sum of 55 + 11+ 14 + 62 + + 30 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 19, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 118 day period from May 19, 2011 (the mailing date of the Notice of Allowance) until September 13, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 118 days and be increased from 230 to 348 days. Patentee concludes that the correct patent term adjustment is 768 days (the sum of 592 days of "A delay" and 348 days of "B delay" minus 172 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:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by

appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered. The Information Disclosure Statements filed February 8, 2011, April 11, 2011 and on May 11, 2011 were supplemental to the filing of the response filed January 25, 2011. In this instance, the filing of the Information Disclosure Statements on February 8, 2011, April 11, 2011 and on May 11, 2011 are considered a failure to engage under 1.704(c)(8). The Information Disclosure Statements were not expressly requested by the examiner nor did they include a 1.704(d) statement.

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 106 days counting the number of days in the period beginning January 25, 2011 and ending on the date of filing of the last supplemental paper, the IDS filed May 11, 2011. Accordingly, a period of reduction of 106 days is being entered.

As it relates to the calculation of "B delay, Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 230 days based on the application having been filed under 35 U.S.C. 111(a) on June 8, 2007 and the patent not having issued as of the day after the three year date, June 8, 2010, and a request for continued examination under 132(b) having been filed on January 25, 2011. In other

words, the 118-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, 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

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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.

Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise

provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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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.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on January 25, 2011, and the patent issued by virtue of that request on September 13, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on January 25, 2011 and ending on September 13, 2011 is not included in calculating Office delay.

CONCLUSION

As such, the patent term adjustment is 650 days (592 "A delay" days plus 230 "B delay" days minus 172 Applicant delay days), not 768 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 06-1050. 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 **six hundred fifty (650)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,020,100 B2

DATED : September 13, 2011

INVENTOR(S) : Randy Ubillos

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 (756) days

Delete the phrase "by 756 days" and insert – by 650 days--

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MINNEAPOLIS MN 55440-1022

In re Patent No. 7,917,846	: DECISION ON REQUEST
Decker, et al.	: FOR
Issue Date: March 29, 2011	: RECONSIDERATION OF
Application No. 11/760,650	: PATENT TERM ADJUSTMENT
Filed: June 8, 2007	: and
Atty Docket No. **18962-080001/P5041US1**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 27, 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 seven hundred and forty-seven (747) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and forty-seven (747) days is **GRANTED.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office is in receipt of the $200. 00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred and forty-seven (747) days

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,917,846 B2

DATED : Mar. 29, 2011

INVENTOR(S) : Decker 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 (828) days

Delete the phrase "by 828 days" and insert – by 747 days--

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of
Cisler et al.
Application No. 11/760,669
Filed: June 8, 2007
Dkt. No.: 18962-128001/P4417USX1
For: USER INTERFACE FOR BACKUP MANAGEMENT

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed February 8, 2012. Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred ninety-one (491) days, not five hundred twenty (520) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

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 491 days is **GRANTED**.

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).

Applicants state a reduction pursuant to 37 CFR 1.704(b) is required for the submission of the October 25, 2007 response to the June 25, 2007 Notice to File Missing Parts. 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 30 days for the submission of reply on October 25, 2007 is warranted. The patent term should have been assessed a reduction of 30 days, the number of days

in excess of three months that was taken to reply to the June 25, 2007 the Notice of Missing Parts.

Applicants also contend an additional reduction of 64 days, not 65 days is warranted for the submission of a supplemental response in the form of information disclosure statement submitted on April 12, 2011.

37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner,
>
> after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

Further, a review of the IDS filed, confirms that patentees did not include a statement under 37 CFR 1.704(d). In this instance, the 64 day delay is calculated beginning on February 8, 2011 the day after the submission of the response to the Office action on February 7, 2011 and ends on April 12, 2011 the day the supplemental reply, in this instance the IDS was submitted. A 64 day reduction will be entered.

Applicants' delay as of the mailing of the Notice of Allowance total is 126 days. Office delay as of the mailing of the Notice of Allowance total is 617 days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is four hundred ninety-one **(491)** days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The 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 matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11760669 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11760669

Application Filing Date	06/08/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	617
A Delays	617	PTO Manual Adjustment	-29
B Delays	0	Applicant Delay (APPL)	97
C Delays	0	Total PTA (days)	491

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
104	03/10/2012		P028	Adjustment of PTA Calculation by PTO		64	0
103	03/10/2012		P028	Adjustment of PTA Calculation by PTO	65		0
102	03/10/2012		P028	Adjustment of PTA Calculation by PTO		30	0
97	01/23/2012		MN/=.	Mail Notice of Allowance			0
96	01/18/2012		OAR	Office Action Review			0
95	01/18/2012		OAR	Office Action Review			0
94	01/18/2012		IREV	Issue Revision Completed			0
93	01/18/2012		DVER	Document Verification			0
92	01/18/2012		N/=.	Notice of Allowance Data Verification Completed			0
91	01/17/2012		EX.R	Reasons for Allowance			0
90	01/17/2012		CNTA	Allowability Notice			0
88	11/11/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
87	11/11/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
86	11/11/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
85	11/11/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
84	11/11/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
83	11/11/2011		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
74	09/26/2011		FWDX	Date Forwarded to Examiner			0
89	09/23/2011		IDSC	Information Disclosure Statement considered			0
82	09/23/2011	09/23/2011	DIST	Terminal Disclaimer Filed			73
81	09/23/2011		DIST	Terminal Disclaimer Filed			0
80	09/23/2011		DIST	Terminal Disclaimer Filed			0
79	09/23/2011		DIST	Terminal Disclaimer Filed			0
78	09/23/2011		DIST	Terminal Disclaimer Filed			0
77	09/23/2011		DIST	Terminal Disclaimer Filed			0
76	09/23/2011		RCAP	Reference capture on IDS			0
75	09/23/2011		M844	Information Disclosure Statement (IDS) Filed			0
73	09/23/2011		A...	Response after Non-Final Action			0
72	09/23/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
71	06/23/2011		ELC_RVW	Electronic Review			0
70	06/23/2011		EML_NTF	Email Notification			0
69	06/23/2011	06/07/2011	MCTNF	Mail Non-Final Rejection	16		54
68	06/17/2011		OAR	Office Action Review			0
67	06/13/2011		CTNF	Non-Final Rejection			0
63	04/13/2011	02/07/2011	M844	Information Disclosure Statement (IDS) Filed		65	54
66	04/12/2011		IDSC	Information Disclosure Statement considered			0
64	04/12/2011		RCAP	Reference capture on IDS			0
62	04/12/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
61	04/01/2011		FWDX	Date Forwarded to Examiner			0
60	03/30/2011		SA..	Supplemental Response			0
59	03/25/2011		EML_NTR	Email Notification			0
58	03/25/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
57	03/17/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
53	02/08/2011		ABN9	Disposal for a RCE / CPA / R129			0
65	02/07/2011		IDSC	Information Disclosure Statement considered			0
56	02/07/2011		RCAP	Reference capture on IDS			0
55	02/07/2011		M844	Information Disclosure Statement (IDS) Filed			0
54	02/07/2011	01/06/2011	RCEX	Request for Continued Examination (RCE)		32	42
52	02/07/2011		XT/G	Request for Extension of Time - Granted			0
51	02/07/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
50	02/07/2011		BRCE	Workflow - Request for RCE - Begin			0
49	12/14/2010		EML_NTR	Email Notification			0
48	12/14/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
47	12/10/2010		CTAV	Advisory Action (PTOL-303)			0
46	12/07/2010		FWDX	Date Forwarded to Examiner			0

45	12/06/2010		A.NE	Amendment after Final Rejection		0
44	10/07/2010		ELC_RVW	Electronic Review		0
43	10/06/2010		EML_NTF	Email Notification		0
42	10/06/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0
41	10/01/2010		CTFR	Final Rejection		0
40	07/06/2010		FWDX	Date Forwarded to Examiner		0
39	07/01/2010		A...	Response after Non-Final Action		0
38	04/01/2010		ELC_RVW	Electronic Review		0
37	04/01/2010		EML_NTF	Email Notification		0
36	04/01/2010	08/08/2008	MCTNF	Mail Non-Final Rejection	601	0.5
35	03/29/2010		CTNF	Non-Final Rejection		0
25	12/01/2009		DOCK	Case Docketed to Examiner in GAU		0
28	09/15/2009		IDSC	Information Disclosure Statement considered		0
27	09/15/2009		RCAP	Reference capture on IDS		0
26	09/15/2009		M844	Information Disclosure Statement (IDS) Filed		0
24	09/15/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
23	05/29/2009		DOCK	Case Docketed to Examiner in GAU		0
29	12/09/2008		IDSC	Information Disclosure Statement considered		0
22	12/09/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
21	08/12/2008		DOCK	Case Docketed to Examiner in GAU		0
20	03/02/2008		TI1050	Transfer Inquiry to GAU		0
19	02/19/2008		TI1050	Transfer Inquiry to GAU		0
18	02/07/2008		PG-ISSUE	PG-Pub Issue Notification		0
30	01/29/2008		IDSC	Information Disclosure Statement considered		0
17	01/29/2008		RCAP	Reference capture on IDS		0
16	01/29/2008		EIDS.	Electronic Information Disclosure Statement		0
15	01/29/2008		WIDS	Information Disclosure Statement (IDS) Filed		0
14	12/10/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
13	11/29/2007		OIPE	Application Dispatched from OIPE		0
12	11/01/2007		PGPC	Sent to Classification Contractor		0
11	11/01/2007		FLRCPT.U	Filing Receipt - Updated		0
10	10/25/2007		FLFEE	Payment of additional filing fee/Preexam		0
9	10/25/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
8	10/25/2007		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems		0
7	06/25/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	06/13/2007		L194	Cleared by OIPE CSR		0
3	06/13/2007		CLSS	CASE CLASSIFIED BY OIPE		0
2	06/11/2007		SCAN	IFW Scan & PACR Auto Security Review		0
1	06/08/2007		IEXX	Initial Exam Team nn		0
0.5	06/08/2007		EFILE	Filing date		0

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In re Patent No. 8,010,900
Issued: August 30, 2011
Application No. 11/760,708
Filed: June 8, 2007
Attorney Docket No. 18962-0111001 / P5328US1

: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 October 28, 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 907 to 1038 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 NINE HUNDRED (900) 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 August 23, 2011, the above-identified application matured into U.S. Patent No. 8,010,900 with a patent term adjustment of 907 days. On October 28, 2011, Patentees submitted the instant application.

Applicants dispute the reduction of 1 day for the response filed April 4, 2011. The USPTO mailed a Notice of Allowance to the applicants on January 3,2011, setting a shortened statutory period of three months to reply. The three month response date fell on April 3, 2011, which was a weekend day. The applicants filed a response to the Notice of Allowance on April 4, 2011, the next business day.

In Arqule v. Kappos, _ F.Supp.2d _ (D.D.C. 2011), the District Court of the District of Columbia ruled that the 35 U.S.C. § 21 (b) "weekend add holiday" exception applies to "any action" including the § 154(b)(2)(C) Accordingly, because April 3, 2011 was a

Sunday, the time period to calculate Applicant delay commenced on April 4,2011 rather than April 3, 2011. Therefore, a delay of 1 days was accrued, corresponding to the time period between April 3, 2011 (three months after the mailing date of the Office Action, in accordance with 37 CFR §1.704(b)) and April 4, 2011. Applicants respectfully request the Office to remove the 1 day of Applicant delay and correct the total Applicant delay from 1 day to 0 days as it relates to 37 CFR §1.704(b)).

The reduction is being reconsidered and, based upon the decision in the Arqule case,it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. Accordingly, the period of reduction of 1 day is being removed.

Thus, instead of a 1 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 0 days should have been accorded for applicant delay.

Patentees disclose that the patent term adjustment of 0 days indicated on the front of the patent is incorrect because "Patentees filed an Information Disclosure Statement on April 6, 2011 and on April 12, 2010, subsequent to a reply filed on April 4, 2011. Patentees were accorded 0 days delay for a supplemental response. In good faith and candor, Patentees submit that the supplemental response should have been accorded a total Applicant Delay of 8 days for delay from April 4, 2011 to April 12, 2010. See 37 C.F.R. § 1.704(c)(8).

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 8 days (i.e., the sum of 2 days and 6 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 April 15, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 138 day period from April 15, 2011 (the mailing date of the Notice of Allowance) until August 30, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 138 days and be increased from 299 to 437 days. Patentee concludes that the correct patent term adjustment is 1038 days (the sum of 609 days of "A delay" and 437 days of "B delay" minus 8 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:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
>
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
>
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
>
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
>
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered. The Information Disclosure Statements filed April 6, 2011 and April 12, 2011 were supplemental to the filing of the response filed April 4, 2011. In this instance, the filing of the Information Disclosure Statements on April 6, 2011 and April 12, 2011 are considered a failure to engage under 1.704(c)(8). The Information Disclosure Statements were not expressly requested by the examiner nor did they include a 1.704(d) statement.

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 8 days counting the number of days in the period beginning April 4, 2011 and ending on the date of filing of the last supplemental paper, the IDS filed April 12, 2011. Accordingly, a period of reduction of 8 days is being entered.

As it relates to the calculation of "B delay, Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 299 days based on the application having been filed under 35 U.S.C. 111(a) on June 8, 2007 and the patent not having issued as of the day after the three year date, June 8, 2010, and a request for continued examination under 132(b) having been filed on April 4, 2011. In other words, the 138-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1].

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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

So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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:

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action that otherwise closes prosecution in the application.

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the

application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, . secrecy orders and appeals) in an application.

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the

amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on April 4, 2011, and the patent issued by virtue of that request on August 30, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 4, 2011 and ending on August 30, 2011 is not included in calculating Office delay.

CONCLUSION

As such, the patent term adjustment is 900 days (609 "A delay" days plus 299 "B delay" days minus 8 Applicant delay days), not 1038 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.

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

The application is being forwarded to the 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 **nine hundred (900)** 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 : 8,010,900 B2

DATED : August 30, 2011

INVENTOR(S) : David Hart

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 (907) days

Delete the phrase "by 907 days" and insert – by 900 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent No. 8,006,185	: DECISION ON
Marinkovich, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/760,719	: of PATENT TERM ADJUSTMENT
Issue Date: August 23, 2011	: and
Filed: June 8, 2007	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 18814-0073001	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed October 21, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from five hundred (500) days to six hundred thirty-five (635) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

On August 23, 2011, the instant application matured into U.S. Patent No. 8,006,185 with a patent term adjustment of five hundred (500) days. The Office determined a patent term adjustment of 500 days based upon 509 days of "A" delay plus 47 days of "B" delay, reduced by 56 days of Applicant delay.

Patentees argue that even though they filed an RCE on July 26, 2010, they should be awarded 37 CFR 1.703(b) "over three year" delay from the time the Office mailed a Notice of Allowance on March 30, 2011 until the issue date of the patent. In other words, Patentee argues that no continued examination took place during this time period, and the Office should be accorded 147 additional days of delay pursuant to 37 CFR 1.703(b). Patentees' argument has been considered, but is not persuasive.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
>
> (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 47 days based on the application having been filed under 35 U.S.C. 111(a) on June 8, 2007 and a request

for continued examination under 132(b) having been filed on July 26, 2010. In other words, the 147 day period beginning on the date of mailing of the Notice of Allowance on March 30, 2011 to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8).

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[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, (580 F. Supp. 2d 138), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. Websters Collegiate Dictionary, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. *See* 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. *See* 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. *See* 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or

withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on July 26, 2010, and the patent issued by virtue of that request on August 23, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on July 26, 2010 and ending on August 23, 2011 is not included in calculating Office delay.

In addition, Patentees also argue that they should have been assessed twelve (12) days of Applicant delay pursuant to 37 CFR 1.704(c)(8). A review of the record reveals that Applicants filed an RCE on July 26, 2010, subsequent to an Amendment having been filed on July 14, 2010. As such, 12 days of Applicant delay should have been assessed under 37 CFR 1.704(c)(8) for filing this supplemental paper. The Office thanks Patentees for their good faith and candor in bringing this to the Office's attention.

In view thereof, the correct number of days of patent term adjustment is **four hundred eighty-eight (488)** days (509 days of "A" delay plus 47 days of "B" delay, reduced by 68 (12+56) days of Applicant delay).

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred eighty-eight (488) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 8,006,185 B2

DATED : **August 23, 2011**

INVENTOR(S) : Marinkovich 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 500 days.

Delete the phrase "by 500 days" and insert – by 488 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/04/11

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 11760833 Patent No.: 7857885

CofC mailroom date: 01/26/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Approved, OK to enter

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Michael Marcheschi/ 1775

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AT&T Legal Department - GMG
Attention: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

MAILED
DEC 02 2011
OFFICE OF PETITIONS

In re Application of
Swix et al.
Application No 11/760,860
Filed: June 11, 2007
Attorney Docket No. 01330CON2_7785-0867

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application was held abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed March 4, 2011. No timely request for extension of time were submitted pursuant to 37 CFR 1.136(a). Accordingly the application was held abandoned on May 5, 2011. A Notice of Abandonment was mailed November 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2425 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

Cc: Ed Guntin
304 Indian Trace #750
Weston, Florida 33326

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOLLAND & KNIGHT LLP
10 ST. JAMES AVENUE
BOSTON MA 02116-3889

MAILED

DEC 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Geraldine ROBINSON, et al	:	
Application No. 11/760,878	:	DECISION ON PETITION
Filed: June 11, 2007	:	TO WITHDRAW
Attorney Docket No: 112538.00001	:	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 30, 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 Elizabeth Burkhard on behalf of the attorneys of record associated with Customer No. 54975.

The attorneys of record associated with Customer No. 54975 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: GEORGE GRAHAM
GERRI'S MARKETING & ADVERTISING
CONCEPTS, LLC
3076 DEE ANN DRIVE
MEMPHIS TN 38119

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
11/760,878	06/11/2007	GERALDINE ROBINSON	112538.00001

CONFIRMATION NO. 8996

POWER OF ATTORNEY NOTICE

54975
HOLLAND & KNIGHT LLP
10 ST. JAMES AVENUE
BOSTON, MA 02116-3889

Date Mailed: 12/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

MAILED

DEC 23 2010

OFFICE OF PETITIONS

In re Application of :
Juergen WIKER, et *al.* :
Application No. 11/761,020 : DECISION GRANTING PETITION
Filed: June 11, 2010 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **4036** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 23, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 3721 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-29-11 **Paper No.:** _____

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/761080 Patent No.: 7880180

CofC mailroom date: _____

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should Claims 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

Ennis York
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: _____

Steven Loke — **SPE**

2818 — **Art Unit**

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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

MAILED

AUG 0 9 2011

OFFICE OF PETITIONS

In re Application of :
Williams, et al. :
Application No. 11/761,115 : ON PETITION
Filed: June 11, 2007 :
Attorney Docket No. P16020-US2 :
For: POLICY CO-ORDINATION IN A COMMUNICATIONS NETWORK

This is a decision on the renewed petition under CFR 1.183, requesting waiver of 37 CFR 1.67, which requires all of the joint inventors to execute a supplemental declaration and the petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioners have established a copy of the above-identified application and a supplemental declaration were mailed to Leslie Graf. However, he did not respond to the request that he sign the supplemental declaration and return it. In view of the constructive refusal by Leslie Graf to sign the declaration, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed September 27, 2007. The aforementioned supplemental declaration has been accepted, on petition. The petition under 37 CFR 1.183 to waive 37 CFR 1.67 is granted.

The application became abandoned for failure to reply in a timely manner to the decision on petition, mailed November 13, 2007, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 14, 2008. A Notice of Abandonment was mailed on July 1, 2008.

Petitioners have submitted a proper reply to the November 13, 2007 decision on petition in the form of a grantable petition under 37 CFR 1.183 to waive 37 CFR 1.67, an acceptable statement

of the unintentional nature of the delay in responding to the November 13, 2007 decision on petition, and the $1,620.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the application will be returned to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:1110

DATE : October 31, 2011

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 7710832

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:

/renee s luebke/
Renee Luebke - SPE - AU 2833

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SOUTHWEST RESEARCH INSTITUTE
P.O. DRAWER 28510
SAN ANTONIO, TX 78228-0510

MAILED

SEP 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,991,533 :
Issue Date: August 2, 2011 :
Application No. 11/761,205 : NOTICE
Filed: June 11, 2007 :
Attorney Docket No. SWR3295

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE LAW OFFICES OF CALVIN B. WARD
18 CROW CANYON COURT, SUITE 305
SAN RAMON CA 94583

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Patent of Lester et al.	:	
Patent No. 7,791,090	:	
Issue Date: September 7, 2010	:	Letter
Application No. 11/761,223	:	
Filing Date: June 11, 2007	:	
Attorney Docket No. 54727	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed October 22, 2010.

The deficiency payment of $1295 is hereby accepted.

The change of status to large entity has been entered and made of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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FEB 03 2011

OFFICE OF PETITIONS

Kevin Orton
3315 E. Russel Road, A4-#257
Las Vegas NV 89120

In re Application of :
Kevin Orton :
Application No. 11/761247 : DECISION
Filing or 371(c) Date: 06/11/2007 : ON PETITION
Title of Invention: :
DEVICE FOR PREPARATION AND DELIVERY OF :
HEALTHCARE SERVICES UTILIZING :
ELECTROLYTIC MEDICAMENT :

This is a decision on the "Petition to Revive Patent Application Unavoidably Abandoned Under 37 CFR 1.137(a)," filed October 29, 2010, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 7, 2010. The Notice set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on April 8, 2010. A Notice of Abandonment was mailed August 2, 2010.

The present petition

Applicant files the present petition, and explains that the delay in filing a reply to the non-final office action was unavoidable because an office building petitioner owns suffered damage due to hurricane Ike, and in the six months following petitioner was attending to the affairs in connection with the damage to the building. In addition, petitioner provides that there were law suits arising from the hurricane damage requiring considerable and extensive personal commitments that petitioner could not avoid. Petitioner notes that he was required to move to

Houston to attend to these matters and did not have his case files, nor did petitioner have an assistant.

Petitioner files the petition fee of $270.00 with the petition, and includes an additional $540.00 in the event that the present petition is not acceptable.

It is noted that no reply to the non-final Office action has been filed.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition lacks items (1) and (3).

Applicable Law, Rules and MPEP

As to item (1), petitioner is advised that a grantable petition requires a reply to the outstanding Office action. A copy of the Office action, mailed January 7, 2010, is enclosed. A reply to the Office action is required.

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.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

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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).

Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Analysis

The standard requires Petitioner to demonstrate that he acted as a prudent and careful person in relation to is most important business. 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.

Petitioner asserts the delay was unavoidable because petitioner was attending to the affairs in connection with the damage to the building, and subsequent law suits, and extensive personal commitments that petitioner could not avoid. In this regard, petitioner is reminded that the standard requires petitioner to act as a prudent and careful person in relation to his most important business. Petitioner was otherwise engaged in other business, which petitioner admits prevented petitioner from filing a complete and proper (including timely) reply to the Office action. As such, petitioner has failed to demonstrate that he acted as a prudent and careful person in relation to his most important business – to wit, the filing of a complete and proper reply to the Office action.

Conclusion

Petitioner has failed to file the required reply to the Office action, and petitioner has failed to demonstrate that the delay in payment of the issue fee was unavoidable.

Alternate venue

It is noted that Applicant has filed an additional $540.00 in the event that the present petition is not acceptable. Petitioner is advised that the fee for the present petition is $270.00. The fee for a petition to revive an application abandoned unintentionally is $810.00.

Petitioner is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

The Office has received $540.00, in addition to the petition fee of $270.00. Petitioner may file a request for reconsideration of the present petition (no additional fee), (along with the required reply to the outstanding Office action), or petitioner may file a petition to revive the application based upon unintentional delay (along with the required reply to the outstanding Office action), and include an additional $270.00)

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232. All other inquiries should be directed to the applicable Office.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: January 7, 2010 Office action

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.
11/761,247	06/11/2007	Kevin R. Orton	704484.4029	9657

62373 7590 01/07/2010

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LAS VEGAS, NV 89119

EXAMINER	
TARDIF, DAVID P	
ART UNIT	**PAPER NUMBER**
2876	

MAIL DATE	DELIVERY MODE
01/07/2010	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.

Office Action Summary	Application No.	Applicant(s)	
	11/761,247	ORTON, KEVIN R.	
	Examiner	Art Unit	
	DAVID TARDIF	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-46 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-46 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 06/11/2007 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 20070705.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 07/05/2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. **Claims 1-7, 9-12, 14-31, 33-35 and 37-46** are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. (6,117,285) in view of Tremblay et al. (US 6,591,199 B2).

As to **claims 1 and 25**: Welch et al. teaches a device for preparation of electrically active medicament (abstract), the medicament being in a vial (figure 1), the vial comprising a plurality of electrodes (122), the device comprising: a housing (114); a power supply (102) with electrical signal generating circuitry (figure 4) to produce an electrical signal according to an operating parameter (column 11, lines 20-45); a plurality of electrical contacts to establish an electrical connection between the plurality of electrodes and the electrical signal generating circuitry (106, 112); means to accept coded information associated with the vial (column 9, lines 8-27); and a processor for analysis of the coded information (164).

Welch et al. is silent as to a datalink to allow the processor to access a database containing operating information, wherein the processor compares the coded

information associated with the vial with the operating information from the database to compute the operating parameter for the electrical signal to be delivered to the vial, wherein the processor configures an operating parameter without operator input.

Tremblay et al. teaches this: a database with a datalink to the processor (figure 1, 3 connected through 2 to 7 and 6), that the processor compares acquired information with the database information (paragraph starting in column 9, lines 66-67 continuing on column 10), that the processor configures the operating parameter without operator input (column 2, lines 24-26, column 3, 45-57, automatically changes settings).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Welch et al. with the teachings of Tremblay et al. so that the importing and exporting of data and information between the system and a third party is simplified (Tremblay et al., column 3, lines 50-57).

As to **claims 2 and 26**: Tremblay et al. teaches that the coded information associated with the vial and the operating information in the database are inaccessible to the operator (column 2, lines 4-28, explain that it is preferable to have a system where the operator is cut out of the equation, referring to the invention in the reference Tremblay et al.).

As to **claims 3 and 27**: Tremblay et al. teaches that the operating parameter of the electrical signal includes at least one of voltage, frequency, current and time duration (claim 3).

As to **claims 4 and 28**: Tremblay et al. teaches that the device comprises an amp sensing circuit to measure flow of electrical current (column 3, lines 32-56).

As to **claims 5 and 29**: Tremblay et al. teaches that the database is inaccessible to the operator (column 2, lines 4-28, explain that it is preferable to have a system where the operator is cut out of the equation, referring to the invention in the reference Tremblay et al.).

As to **claims 6 and 30**: Welch et al. teaches that the signal generating circuitry comprises an alternating current generator (table C shows element 452 as operating 120AC 50 Hz).

As to **claims 7 and 31**: Tremblay et al. teaches that the device comprises a sensor to detect an electrical status of the medicament within the vial and to transfer status information to the device (column 3, lines 32-56).

As to **claims 9 and 33**: Welch et al. teaches a timer to determine elapsed time (column 17, lines 30-49).

As to **claims 10 and 34**: Welch et al. teaches a readout display for use by an operator of the device (table C, elements 416-450).

As to **claims 11 and 35**: Tremblay et al. teaches that the database is remote and contains a datalink to the processor (figure 1, column 3, lines 32-56).

As to **claim 12**: Tremblay et al. teaches that the datalink connects to the remote database through a network (figure 1, column 3, lines 32-56).

As to **claims 14 and 37**: Tremblay et al. teaches that a memory element stores operating information (figure 1, database, figure 2, 9, computer, column 6, lines 6-17).

As to **claims 15 and 38**: Tremblay et al. teaches that a memory element stores coded information (figure 1, database, figure 2, 9, computer, column 6, lines 6-17).

As to **claims 16 and 39**: Welch et al. teaches that the vial is pre-filled with fluid (column 3, lines 52-58).

As to **claims 17 and 40**: Tremblay et al. teaches that there is an override means to allow the operator to change the operating parameter configured by the processor (figure 3 shows alterable input fields for certain parameters).

As to **claims 18 and 41**: Tremblay et al. teaches that the device controls uniformity in preparation of known dosages of the medicament by comparison of the coded information with the database operating information (column 3, lines 10-56).

As to **claims 19 and 42**: Tremblay et al. teaches that the operating information contains pre-configured operating parameters (figure 4 shows this).

As to **claims 20 and 43**: Tremblay et al. teaches that the processor configures the operating parameter according to coded information associated with the vial (column 3, lines 10-56).

As to **claims 21 and 44**: Tremblay et al. teaches a plurality of independent signal generator outputs, each of which is configured to establish an electrical connection with one of a plurality of vials, wherein the outputs share the database containing the operating information (shown in figure 2).

As to **claim 22**: Tremblay et al. teaches that the database is remote (figure 1, column 3, lines 32-56).

As to **claims 23 and 45**: Welch et al. teaches at least one chamber to hold the vial (114).

As to **claims 24 and 46**: Tremblay et al. teaches a second parameter produced by a second signal computer by the processor from data from the database (column 3, lines 10-56, where multiple parameters are explained).

2. **Claims 8 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. (6,117,285) as modified by Tremblay et al. (US 6,591,199 B2) as applied to claims 1 and 25, and further in view of Thomas (5,637,854). The teachings of Welch et al. as modified by Tremblay et al. are discussed above.

As to **claims 8 and 32**: Welch et al. as modified by Tremblay et al. teach the limitations of claims 1 and 25.

Welch et al. as modified by Tremblay et al. are silent as to a sensor detecting the presence of a vial.

Thomas teaches this: abstract, figure 1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Welch et al. as modified by Tremblay et al. with the teachings of Thomas so that an efficient and effective method of inventory control is employed (column 1, lines 10-28, Thomas), eliminating errors overall.

3. **Claims 13 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. (6,117,285) as modified by Tremblay et al. (US 6,591,199 B2) as applied to claims 1 and 25, and further in view of Childers (US PGPub 2002/0187478 A1). The teachings of Welch et al. as modified by Tremblay et al. are discussed above.

As to **claims 13 and 36**: Welch et al. as modified by Tremblay et al. teach the limitations of claims 1 and 25.

Welch et al. as modified by Tremblay et al. are silent as to a token device associated with the coded information wherein the token device may be inserted into the device for transfer of the coded information to the processor

Childers teaches this: paragraph 0039.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Welch et al. as modified by Tremblay et al. with the teachings of Childers so that an additional way of transferring data pertaining to the medicament is available for use.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID TARDIF whose telephone number is (571)270-

7810 and email is david.tardif@uspto.gov. The examiner can normally be reached on Monday through Thursday, 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lee can be reached on (571)272-2398. 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.

/DAVID TARDIF/
Examiner, Art Unit 2876

/Michael G Lee/
Supervisory Patent Examiner, Art Unit 2876

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APR 04 2011

OFFICE OF PETITIONS

Kevin Orton
3315 E. Russel Road, A4-#257
Las Vegas NV 89120

In re Application of :
Kevin Orton :
Application No. 11/761247 : DECISION
Filing or 371(c) Date: 06/11/2007 : ON PETITION
Title of Invention: :
DEVICE FOR PREPARATION AND DELIVERY OF :
HEALTHCARE SERVICES UTILIZING :
ELECTROLYTIC MEDICAMENT :

This is a decision on the renewed "Petition to Revive Patent Application Unavoidably Abandoned Under 37 CFR 1.137(a)," and on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b)," filed March 15, 2011.

This renewed petition under 37 CFR 1.137(a) is hereby **dismissed**.

The Petition under 37 CFR 1.137(b) is hereby **granted**

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 7, 2010. The Notice set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on April 8, 2010. A Notice of Abandonment was mailed August 2, 2010.

The October 29, 2010 petition

Applicant filed a petition to revive the application based upon an unavoidably delayed response to the Office action, on October 29, 2010. Petitioner explained that the delay in filing a reply to the non-final office action was unavoidable because an office building petitioner owns suffered damage due to hurricane Ike, and in the six months following petitioner was attending to the affairs in connection with the damage to the building. In addition, petitioner provided that there were law suits arising from the hurricane damage requiring considerable and extensive personal commitments that petitioner could not avoid. Petitioner noted that he was required to move to Houston to attend to these matters and did not have his case files, nor did petitioner have an assistant.

No reply to the non-final Office action was filed.

The petition was dismissed in a Decision mailed February 3, 2011. The Decision dismissing the petition noted that the standard requires Petitioner to demonstrate that he acted as a prudent and careful person in relation to is most important business. Petitioner was informed that it is Petitioner who 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.

Here, Petitioner had asserted the delay was unavoidable because petitioner was attending to the affairs in connection with the damage to the building, and subsequent law suits, and extensive personal commitments that petitioner could not avoid. In this regard, petitioner was reminded that the standard requires petitioner to act as a prudent and careful person in relation to his most important business. In this instance, Petitioner was otherwise engaged in other business, which petitioner admitted prevented petitioner from filing a complete and proper (including timely) reply to the Office action. As such, petitioner had failed to demonstrate that he acted as a prudent and careful person in relation to his most important business – to wit, the filing of a complete and proper reply to the Office action.

The present renewed petition

Petitioner files the present petition seeking reconsideration of the October 29, 2010 petition. Petitioner has not provided additional information and instead apparently relies upon the evidence presented in the October 29, 2010 petition.

Petitioner has also included a response to the outstanding Office action with the present request for reconsideration of petition.

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).

Petitioner lacks item (**3**).

Applicable Law, Rules and MPEP

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]

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

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.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Analysis

Petitioner 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. Here, the reply was due on April 7, 2010. The petition was filed October 29, 2010. The relevant period is from April 8, 2010 to October 29, 2010, and it is this period of time that petitioner must demonstrate that he was unavoidably delayed in filing the required reply to the Office action. Petitioner notes that he returned home in May of 2010, but Petitioner has failed to demonstrate that the entire delay (for the relevant period), from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The standard requires petitioner to act as a prudent and careful person in relation to his most important business. Petitioner was otherwise engaged in other business, which

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[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).

petitioner admits prevented petitioner from filing a complete and proper (including timely) reply to the Office action. As such, petitioner has failed to demonstrate that he acted as a prudent and careful person in relation to his most important business – to wit, the filing of a complete and proper reply to the Office action.

Conclusion

Petitioner has failed to demonstrate 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.

Petition under 37 CFR 1.137(b)

Applicant requests alternative treatment of the petition under the unintentional standard. The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center Art Unit 2876 for processing of the amendment filed with the present petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Houser et al.	:	DECISION ON PETITION
Application No. 11/761,371	:	TO WITHDRAW
Filed: June 12, 2007	:	FROM RECORD
Attorney Docket: 37163-705.301	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that Greenberg Traurig, LLP were revoked as power of attorney by the assignee of the patent application on October 4, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Brian Hudson, et al.	:	
Application No. 11/761,412	:	DECISION GRANTING PETITION
Filed: June 12, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
14917.0618US01/320281.01		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 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 July 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2173 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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MAR 09 2011

OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

In re Application of :
Fred S. Zzar, et al. :
Application No. 11/761,418 : ON PETITION
Filed: June 12, 2007 :
Attorney Docket No.: 2007P00033US01 :

This is a decision in response to the petition, filed, December 14, 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 April 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 July 6, 2010. A Notice of Abandonment was mailed on November 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 an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2628 for appropriate action by the Examiner in the normal course of business on the reply received December 14, 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE, LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of
Shaoher X. PAN
Application No. 11/761,446
Filed: June 12, 2007
Attorney Docket No. **29216-0002001**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **PERKINS COIE, LLP** has been revoked by the applicant of the patent application on July 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **FISH & RICHARDSON, PC**
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 09 2010

OFFICE OF PETITIONS

COATS & BENNETT, PLLC
1400 CRESCENT GREEN, SUITE 300
CARY, NC 27518

In re Patent No. 7,761,474	:	
Issue Date: April 7, 2009	:	
Application No. 11/761,474	:	ON PETITION
Filed: June 12, 2007	:	
Attorney Docket No.: 5753-004	:	

This is a decision on the communication, filed July 20, 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) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/26/11

TO SPE OF : ART UNIT: 3637 Attn: JAYNE DARNELL M (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/761581 Patent No.: 7997211

CofC mailroom date: 09/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check the Specifications & Claims Should these changes be made or not

TasneemSiddiqui
Certificates of Correction Branch
703-756-1814& 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

xApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: Changes have been approved as none affect the scope of the claims or include new matter. /JVC/ primary Examiner /Darnell Jayne/ SPE

Art Unit 3637

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	11761589
Filing Date	12-Jun-2007
First Named Inventor	Dan Millward
Art Unit	1713
Examiner Name	ANITA ALANKO
Attorney Docket Number	MTI-34411
Title	ALTERNATING SELF-ASSEMBLING MORPHOLOGIES OF DIBLOCK COPOLYMERS CONTROLLED BY VARIATIONS IN SURFACES

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	/Kristine M. Strodthoff/
Name	Kristine M. Strodthoff
Registration Number	34259

UNITED STATES 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 27, 2012

In re Application of :

Dan Millward

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11761589

Filed : 12-Jun-2007

Attorney Docket No : MTI-34411

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed February 27, 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 1713 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MARIA E. KITZ
CLARK HILL PLC
150 NORTH MICHIGAN AVENUE
SUITE 2700
CHICAGO IL 60601

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of :
EGBERT FRENKEN :
Application No. 11/761,690 : DECISION ON PETITION
Filed: June 12, 2007 :
Attorney Docket No. 913/46634/374 :

This is a decision on the petition filed July 14, 2011, under the unavoidable provisions of 37 CFR 1.137(a). The petition is also treated under the provisions of 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 **DISMISSED.**

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed September 28, 2010, which set a Statutory Period for reply of Three (3) months from the mail date of the Office action. No extensions of time under the provisions of 37 CFR 1.136(a), were obtained. Accordingly, the application became abandoned on December 29, 2010

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner states that "In late June 2010, the law firm of Trexler, Bushnell, Gianglorgi, Blackstone & Marr, Ltd. (herein "Trexler") joined the law firm of Clark Hill PLC (herein "Clark

Hill"). On June 25, 2010, an Official Mail Forwarding Change of Address Order was submitted to the United States Post Office to forward any mail for Trexler to Clark Hill. Proof of this is shown in the attached. Since the time of the initial filing of the Order, Clark Hill has contacted the United States Post Office to ensure that the Order was still in effect and the United States Post Office has confirmed this...."

Petitioner also states that ". ... PAIR states that the non-final rejection was "returned to USPTO as undelivered". Clark Hill's Order with the United States Post Office was in effect at that time. It was only after Clark Hill received the Notice of Abandonment (which the United States Post Office did forward from Trexler to Clark Hill) was it realized that a non-final rejection has issued...."

Petitioner further states that "As a result of the United States Post Office's failure to comply with its Order, the non-final rejection was not forwarded to Clark Hill from Trexler. This resulted in an unavoidable abandonment of the application as Clark Hill was not aware of the issuance of the Office Action. ..."

Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence that is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Further, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also* In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their

responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). In this regard, a review of Office records shows **no** receipt of a change of correspondence address being submitted to the USPTO prior to the mailing of the Office action on September 28, 2010. Petitioner submitted evidence that an Official Mail Forwarding Change of Address Order was submitted to the United States Post Office to forward any mail for Trexler to Clark Hill. However, Petitioner's failure to not submit a change of correspondence address to the USPTO is not unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), since this could have been avoided by the due care and exercise of a prudent and careful person in relation to his most important business. *See* Ex parte Pratt, *supra;* and Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

In view of the above, petitioner has not carried his burden of proof in establishing that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the petition will not be granted under the provisions of 37 CFR 1.137(a).

As to the Petition under 37 CFR 1.137(b):

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

The above 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 is required.

As the petition was considered under the provisions of 37 CFR 1.137(a) and under 37 CFR 1.137(b), both require separate fees. Therefore, a petition fee pursuant to 37 CFR 1.17(m) of $1,620.00 is being charged to petitioner's deposit account as authorized.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARIA E. KITZ
CLARK HILL PLC
150 NORTH MICHIGAN AVENUE
SUITE 2700
CHICAGO IL 60601

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Egbert Frenken	:	
Application No. 11/761,690	:	DECISION ON PETITION
Filed: June 12, 2007	:	
Attorney Docket No. 913/46634/374	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and replacement drawing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed September 28, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
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	11761777
Filing Date	12-Jun-2007
First Named Inventor	Alexander Kordun
Art Unit	2491
Examiner Name	LINGLAN EDWARDS
Attorney Docket Number	260-120 CAM9-2007-0025US1
Title	METHOD AND SYSTEM FOR PROVIDING SHARABLE BOOKMARKING OF WEB PAGES CONSISTING OF DYNAMIC CONTENT

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	/David Dagg/
Name	David Dagg
Registration Number	37809

UNITED STATES 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 : September 14,2011

In re Application of :

Alexander Kordun

Application No : 11761777

Filed : 12-Jun-2007

Attorney Docket No : 260-120 CAM9-2007-0025US1

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed September 14,2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/761,797	06/12/2007	Mikhail Milgramm	P/5126-2	1625

7590 05/18/2011

John F. Vodopia, PC
191 New York Avenue
Huntington, NY 11743

EXAMINER	
WYSZYNSKI, AUBREY H	

ART UNIT	PAPER NUMBER
2434	

MAIL DATE	DELIVERY MODE
05/18/2011	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
WASHINGTON, DC 20231
www.uspto.gov

John F. Vodopia, PC
191 New York Avenue
Hungtingon NY 11743

In re Application of: Milgramm
Application No. 11/761797
Filed: June 12, 2007
For: System and Method for Protection of Creative Works

Sua Sponte DECISION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request, telephoned in on May 18, 2011, that the holding of abandonment be withdrawn in the above-identified application. This request is being effectively handled as a petition under 37 C.F.R. §1.181 and M.P.E.P §711.03(c).

This application was held abandoned for failure to respond in a timely and effective manner to the Office action mailed June 15, 2010. A Notice of Abandonment was mailed December 22, 2010.

A review of the file record indicates that the original response has been associated with the file and was received on December 21, 2010. The response included a proper certificate of mailing with a mail date of December 15, 2011 and a three month extension of time. Further, since the six month statutory period ended on December 15, 2010, the response filed the same day was timely filed within the six month period as per M.P.E.P. 512 & 710.02 and is accepted.

Therefore, the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued. The office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

The petition is **GRANTED**. The Notice of Abandonment is withdrawn. The application is being forwarded to the examiner to consider the December 21 response to the June office action..

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612. A second point of Contact is Kim Huynh at (571)-272-4147

Tod R Swann, WQAS 2430
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DLP PIPER LLP (US)
ATTN: PATENT GROUP
P.O. BOX 2758
RESTON, VA 20195

MAILED

OCT 14 2011

OFFICE OF PETITIONS

In re Application of :
Kaiyuang Huang, et al. :
Application No. 11/761,865 : DECISION ON PETITION
Filed: June 12, 2007 : TO WITHDRAW
Attorney Docket No. 5473-005 US3 : 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 26, 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 James M. Heintz 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 James M. Heintz at the address indicated below.

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: **LIQUID COMPUTING CORPORATION**
340 TERRY FOX, SUITE 300
OTTAWA, K2K 3A2

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
11/761,865	06/12/2007	Kaiyuan HUANG	5473-005 US3

CONFIRMATION NO. 1733

POWER OF ATTORNEY NOTICE

24510
DLA PIPER LLP (US)
ATTN: PATENT GROUP
P.O. Box 2758
Reston, VA 20195

OC000000050146058

Date Mailed: 09/30/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLP PIPER LLP (US)
ATTN: PATENT GROUP
P.O. BOX 2758
RESTON, VA 20195

MAILED

SEP 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Kaiyuang Huang, et al.	:	
Application No. 11/761,885	:	DECISION ON PETITION
Filed: June 12, 2007	:	TO WITHDRAW
Attorney Docket No. 5473-005 US4	:	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 26, 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 James M. Heintz 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 James M. Heintz at the address indicated below.

There is an outstanding Office action mailed May 20, 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: **LIQUID COMPUTING CORPORATION**
340 TERRY FOX, SUITE 300
OTTAWA, K2K 3A2

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/761,885	06/12/2007	Kaiyuan HUANG	5473-005 US4

CONFIRMATION NO. 1765

POWER OF ATTORNEY NOTICE

24510
DLA PIPER LLP (US)
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P.O. Box 2758
Reston, VA 20195

Date Mailed: 09/06/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2011.

- 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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5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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NOV 23 2011
OFFICE OF PETITIONS

In re Application of :
Harish Muthali et al. :
Application No. 11/761,947 : DECISION ON PETITION
Filed: June 12, 2007 :
Attorney Docket No. 070671 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 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 November 1, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2011. Accordingly, the date of abandonment of this application is November 2, 2011. A Notice of Abandonment was mailed on November 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 payment of the issue fee of $1,740 and the publication fee of $300, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 23 2011
OFFICE OF PETITIONS

In re Patent No. 8,041,881	:
RAJAN et al.	: DECISION ON REQUEST FOR
Issue Date: October 18, 2011	: RECONSIDERATION OF
Application No. 11/762,010	: PATENT TERM ADJUSTMENT
Filed: June 12, 2007	: AND NOTICE OF INTENT TO
Attorney Docket No. 16113-1929001	: ISSUE CERTIFICATE OF CORRECTION
Title: MEMORY DEVICE WITH EMULATED CHARACTERISTICS	:

This is a decision on the petition filed on December 16, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred fifty-nine (159) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **twenty-six (26) days**.

BACKGROUND

On October 18, 2011, the above-identified application matured into U.S. Patent No. 8,041,881 with a revised patent term adjustment of 35 days. On December 16, 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 159.

Initially, Patentee discloses that a period of reduction of 9 days under 37 CFR 1.704(c)(8) should be entered for the filing of a supplemental reply in the form of an IDS on May 27, 2011, after the filing of a proper reply on May 18, 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 May 27, 2011, reveals that applicants did not include a statement under 37 CFR 1.704(d). Accordingly, a period of reduction of 9 days is merited and will be entered. The Office thanks Patentee for this disclosure.

Next, Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 8, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 133-day period from June 8, 2011 (the mailing date of the Notice of Allowance) until October 18, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 133 days and be increased from 0 to 133 days. Patentee concludes that the correct patent term adjustment is 159 days (the sum of 220 days of "A delay" and 133 days of "B delay" minus 0 days of overlap between "A delay" and "B delay" minus 194 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 June 12, 2007, and the patent not having issued as of the day after the three year date, June 13, 2010, and a request for continued examination under 35 U.S.C. 132(b) having been filed on June 4, 2010. In other words, the 133-day period

beginning on the date of mailing of the Notice of Allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. Thus, with respect to calculating the "B delay", where applicant has filed a request for continued examination the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued

---

[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a Notice of Allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office

from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the

applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permits the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the Notice of Allowance, the time consumed by continued examination requested by the applicant under section 132(b) does

[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.

not terminate with the mailing of the Notice of Allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the Notice of Allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on June 4, 2010, and the patent issued by virtue of that request on October 18, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 4, 2010, and ending on October 18, 2011, is not included in calculating Office delay.

CONCLUSION

Accordingly, the patent term adjustment is 26 days (220 days of "A delay" + 0 days of "B delay" - 0 days of overlap - 194 day of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **twenty-six (26) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,041,881 B2
DATED : Oct. 18, 2011
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 (35) days.

Delete the phrase "by 35 days" and insert – by 26 days--

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OFFICE OF PETITIONS

In re Patent No. 8,090,897	:
RAJAN et al.	: DECISION ON REQUEST FOR
Issue Date: January 3, 2012	: RECONSIDERATION OF
Application No. 11/762,013	: PATENT TERM ADJUSTMENT
Filed: June 12, 2007	: AND NOTICE OF INTENT TO
Attorney Docket No. 16113-1930001	: ISSUE CERTIFICATE OF
	: CORRECTION

This is a decision on the petition filed on February 23, 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 three hundred (300) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one hundred two (102) days.**

BACKGROUND

On January 3, 2012, the above-identified application matured into U.S. Patent No. 8,090,897 with a revised patent term adjustment of 193 days. On February 23, 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 300.

First, patentee asserts that the Office should have assessed a period of 90 days of applicant delay, not 93 days, pursuant to 37 CFR 1.704(b) for the filing of the reply on December 7, 2009, in response to the non-final Office action mailed June 5, 2009. Patentee asserts that the three-month due date should be calculated from September 8, 2009, because September 5 and 6, 2009, fell over a weekend, and September 7, 2009, was a federal holiday.

Patentee's assertion is well taken. The reduction of 93 days pursuant to 37 CFR 1.704(b) will be removed and a period of 90 days of applicant delay will be entered.

Second, patentee argues that the Office should not have assessed a period of 1 day of applicant delay pursuant to 37 CFR 1.704(b) for the filing of the reply on May 23, 2011, in response to the Notice of Allowance mailed February 22, 2011. Patentee asserts that the three-month due date should be calculated from May 23, 2011, because May 22, 2011, fell on a Sunday.

Patentee's assertion is well taken. The period of reduction of 1 day pursuant to 37 CFR 1.704(b) will be removed.

Third, patentee discloses that a period of reduction of 26 days under 37 CFR 1.704(c)(8) should be entered for the filing of a supplemental reply in the form of an IDS on May 11, 2010, after the filing of a proper reply on April 15, 2010. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed May 11, 2010, reveals that patentee did not include a statement under 37 CFR 1.704(d).

Accordingly, a period of reduction of 26 days for applicant delay is merited and will be entered. The Office thanks patentee for this disclosure.

Fourth, patentee discloses that a period of reduction of 77 days under 37 CFR 1.704(c)(10) (instead of 8 days) should be entered for the filing of an Amendment under 37 CFR 1.312 on September 20, 2011, after the mailing of the Notice of Allowance. Patentee attests that the USPTO did not mail a response to the Amendment until December 5, 2011.

Accordingly, the period of reduction of 8 days will be removed. A period of reduction of 77 days for applicant delay is merited and will be entered. The Office again thanks patentee for this disclosure.

Fifth, patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 20, 2011, thereby closing examination of the application on that date. Thus, patentee argues no continued examination took place during the 198-day period from June 20, 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 198 days and be increased from 0 to 198 days. Patentee concludes that the correct patent term adjustment is 300 days (the sum of 299 days of "A delay" and 198 days of "B delay" minus 197 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 June 12, 2007, and the patent having issued on January 3, 2012, and a request for continued examination under 35 U.S.C. 132(b) having been filed on April 15, 2010. In other words, the 198-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 0 days of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was

filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. Thus, with respect to calculating the "B delay", where applicant has filed a request for continued examination the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued

---

[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a Notice of Allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United

States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138 (D.D.C. 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

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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.

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] permits the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the Notice of Allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the Notice of Allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the Notice of Allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that

[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.

request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on April 15, 2010, and the patent issued by virtue of that request on January 3, 2012. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 15, 2010, and ending on January 3, 2012, is not included in calculating Office delay.

CONCLUSION

Accordingly, the patent term adjustment is 102 days (299 days of "A delay" + 0 days of "B delay" - 0 days of overlap - 197 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 37 CFR 1.136.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term

of the above-identified patent is extended or adjusted by **one hundred two (102) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,090,897 B2
DATED : Jan. 3, 2012
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 (193) days.

Delete the phrase "by 193 days" and insert – by 102 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Holger Janssen :
Application No. 11/762,228 :
Filed: June 13, 2007 :
Attorney Docket No. VTX0352-US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on June 30, 2010.

The request is **NOT APPROVED.**

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted. 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 are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

MAILED
FEB 01 2012
OFFICE OF PETITIONS

In re Application of :
Broman et al. :
Application No. 11/762,260 : ON PETITION
Filed: June 13, 2007 :
Attorney Docket No. 320184.01 :
For: DETACHING PROFILERS

This is a decision on the petition, filed January 6, 2012, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed May 25, 2011, which set an extendable period for reply of three (3) months. Having received no extensions of time under 37 CFR 1.136(a) or timely filed reply, the Office considered the application abandoned on August 26, 2011. A Notice of Abandonment was mailed on January 30, 2012.

A review of the written record indicates an irregularity in the mailing of the non-final Office action of May 25, 2011. In this regard, the Office received a proper Change of Correspondence Address, 3.73(b) Statement, and copy of an executed assignment from the inventors to the assignee, Microsoft Corporation, on June 21, 2007. Unfortunately, the Office did not promptly enter all of the requested changes. This error resulted in the May 25, 2011 non-final Office action being transmitted to an incorrect correspondence address. The desired correspondence address was not entered in Office databases until January 12, 2012.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. The Notice of Abandonment mailed on January 30, 2012 is hereby vacated. No petition fee has been or will be charged in connection with this matter.

It is unnecessary to re-mail the May 25, 2011 non-final Office action, as petitioners have already filed an amendment in response. After the mailing of this decision, the application will be returned to Technology Center Art Unit 2192 for consideration of applicants' amendment, filed January 6, 2012.

Telephone inquiries 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
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ALLEMAN HALL MCCOY RUSSELL & TUTTLE, LLP
806 S.W. BROADWAY, SUITE 600
PORTLAND OR 97205

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
Douglas Raymond Martin, et al. :
Application No. 11/762,272 : DECISION ON PETITION
Filed: June 13, 2007 :
Attorney Docket No.: 81150500 :

This is a decision on the petition under 37 CFR 1.182, filed, November 11, 2010, to correct the name of inventor "Ed Badillo" to – Edward Badillo --.

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 correction of the above-named inventor, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

The application is being returned to Technology Center AU 3655 for further processing.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/762,272	06/13/2007	3655	1050	81150500	21	3

CONFIRMATION NO. 1470

36865
ALLEMAN HALL MCCOY RUSSELL & TUTTLE, LLP
806 S.W. BROADWAY, SUITE 600
PORTLAND, OR 97205

CORRECTED FILING RECEIPT

OC000000044956455

Date Mailed: 12/14/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Douglas Raymond Martin, Canton, MI;
Edward Badillo, Brownstown Township, MI;
Paul M. Gartner, Oshtemo, MI;

Assignment For Published Patent Application

FORD GLOBAL TECHNOLOGIES, LLC, Dearborn, MI

Power of Attorney: The patent practitioners associated with Customer Number 36865

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/29/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/762,272**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Dynamic Allocation of Drive Torque

Preliminary Class

477

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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POTOMAC PATENT GROUP PLLC
P.O. BOX 270
FREDERICKSBURG VA 22404

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Bengt Lindoff et al	:	
Application No. 11/762,379	:	DECISION ON PETITION
Filed: June 13, 2007	:	
Attorney Docket No. 0110-149	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed July 14, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/18/2012

TO SPE OF : ART UNIT 2877 Toatley Gregory (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/762430 Patent No.: 8045152

CofC mailroom date: _____

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: _____

_____

H. Pla

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: The certificate of correction is approved.

/Gregory J. Toatley, Jr./ AU 2877

SPE Art Unit

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID PRESSMAN, ESQ.
1070 GREEN STREET
1402
SAN FRANCISCO, CA 94133-5418

MAILED

SEP 27 2011

OFFICE OF PETITIONS

In re Application of :
Robert H. Howe :
Application No. 11/762,449 : ON PETITION
Filed: June 13, 2007 :
Attorney Docket No. HoweDome :

This is a decision on the petition under 37 CFR 1.181 filed January 19, 2011 and supplemented on June 25, 2011, requesting to withdraw the holding of abandonment in the above-identified application.

A review of the record shows that a Restriction/Election Requirement was mailed on March 10, 2010, setting a one (1) month or thirty (30) day response period, whichever is longer, from the mailing date of the communication. On April 7, 2010, petitioner filed a response. On April 27, 2010, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed. In response, petitioner filed a reply on April 30, 2010. On January 14, 2011, A Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) No New Time Period for Reply is Provided was mailed. On January 19, 2011, the present petition under 37 CFR 1.181 was filed. A Notice of Abandonment was mailed on January 24, 2011.

Petitioner states "The Notice of Non-Compliant Amendment dated 4/27/2010 stated that "the correction required is *only* the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121". [Emphasis supplied.] The undersigned complied fully with this requirement by submitting *only* the corrected section (the claims) of the non-compliant amendment to replace the non-compliant claims section previously filed. This replacement submission was made under the electronic filing system with full identification of the sender and the application."

Petitioner should note that even though a response was filed and received on April 30, 2010, which could be considered as a timely response to the Office action, the amended claims was not properly signed; and therefore, was considered as an incomplete response to the Office action.

Petitioner is reminded that 37 CFR 1.33(b) states:

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 patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner 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.

In view of the above the present petition is **dismissed**.

ALTERNATIVE VENUE

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(m), $810 for small entity or $1,620 for large entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application can be found on the Web site at www.uspto.gov form (PTO/SB/64).

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID PRESSMAN, ESQ.
1070 GREEN STREET
1402
SAN FRANCISCO, CA 94133-5418

MAILED

DEC 07 2011

OFFICE OF PETITIONS

In re Application of :
Robert H. Howe :
Application No. 11/762,449 : ON PETITION
Filed: June 13, 2007 :
Attorney Docket No. HoweDome :

This is a decision on the renewed petition under 37 CFR 1.181 filed October 2, 2011, requesting to withdraw the holding of abandonment in the above-identified application.

Petitioner argues "(1) The Decision did not give applicant the benefit of the ambiguity resulting from a conflict between the Notice of Non-Compliant Amendment dated 4/27/2010 and the Rule 33(b). (2) The Decision did not consider the fact that the response (new claims) filed Apr 30, 2010 was actually and effectively signed in compliance with Rule 33(b) since it was filed by EFS-Web and had full authentication and certification that the undersigned filed it."

Petitioner's arguments have been considered, but are not persuasive. Therefore, the present petition is again **dismissed** for the reasons stated below.

An amendment **must** be signed by a person having authority to prosecute the application. An unsigned or improperly signed amendment will not be entered. See MPEP 714.01.

Again, petitioner is reminded that 37 CFR 1.33(b) states:

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 patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the

entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, 37 CFR 1.4(d)(1)-d(2) states: Handwritten signature. Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person 's signature, must:

(i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or
(ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.
**>
(2) S-signature. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1). An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature not covered by a handwritten signature of § 1.4(d)(1). Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the Office electronic filing system as an attachment as provided in § 1.6(a)(4), for a patent application, patent, or a reexamination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section.

Petitioner should note that while the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed April 27, 2010, required only the corrected section of the amendment, the amendment filed on April 30, 2010, must be signed in accordance with the statutes and regulations set forth above.

Additionally, even though the Electronic Acknowledgement Receipt contains the identification of the filer/sender, it should be noted that the Electronic Acknowledgement Receipt has the sole purpose of being the electronic equivalent of a postcard receipt as described in MPEP § 503. Therefore, since the Electronic Acknowledgement Receipt filed April 30, 2010, is considered as a postcard receipt and since the follow-on amendment did not contain a handwritten or s-signature, as required by 37 CFR 1.4, the amendment could not be entered.

ALTERNATIVE VENUE

Petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(m), $810 for small entity or $1,620 for large entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application can be found on the Web site at www.uspto.gov form (PTO/SB/64).

Any request for reconsideration of this decision should be submitted within TWO (2) MONTHS from the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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1070 GREEN STREET
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SAN FRANCISCO, CA 94133-5418

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Application of :
Robert H. Howe :
Application No. 11/762,449 : ON PETITION
Filed: June 13, 2007 :
Attorney Docket No. HoweDome :

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2011, to revive the above-identified application.

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 executed amendment; (2) the petition fee of $930; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3633 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/
Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

SEP 2 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Kyung-Mo Park, et al.	:	
Application No. 11/762,454	:	DECISION GRANTING PETITION
Filed: June 13, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q101387	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 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 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 2454 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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WWW.USPTO.GOV

Paper No.

Yudell Isidore Ng Russell PLLC
8911 N. Capital of Texas Hwy.,
Suite 2110
Austin TX 78759

MAILED

JUL 12 2011

OFFICE OF PETITIONS

In re Application of :
Jaiswal et al. :
Application No. 11/762,493 :
Filed: June 13, 2007 : DECISION ON PETITION
Attorney Docket No. : UNDER 37 C.F.R. § 1.137(B)
END920070152US1 :
Title: SYSTEM AND METHOD FOR :
IMPLEMENTING VOICE PRINT-BASED :
PRIORITY CALL ROUTING :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 8, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

A final Office action was mailed on August 18, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 19, 2010. A notice of abandonment was mailed on March 31, 2011.

On April 8, 2011, Petitioner filed this petition, along with a Request for Continued Examination (RCE) along with the associated fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment filed on April 8, 2011 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on April 8, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY, SUITE 2110
AUSTIN, TX 78759

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Tod A. BARRETT, *et al.* :
Application No. 11/762,505 : DECISION ON PETITION
Filed: June 13, 2007 : TO WITHDRAW
Attorney Docket No. **0205AD.050001** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Andrew J. Dillon on behalf of all attorneys of record. Andrew J. Dillon has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUL 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,917,959 :
Kellerman et al. :
Application No. 11/762,510 : LETTER REGARDING
Issue Date: March 29, 2011 : PATENT TERM ADJUSTMENT
Filed: June 13, 2007 :
Atty Docket No. 14972US04 :

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d)," filed May 17, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred and seventy-one (371) days to four hundred and forty-three (443) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred and forty-three (443) days is **DISMISSED.**

BACKGROUND

On March 29, 2011, the above-identified application matured into US Patent No. 7,917,959 with a patent term adjustment of 371 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The record supports a conclusion that this patent is subject to a terminal disclaimer.

At issuance, Patentee was accorded 160 (289 - 129) days for B-delay. Patentee maintains entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 231 (289 - 58) days. In other words, Patentee argues 58 days, not 129 days, should have been excluded from B-delay for time consumed by appellate review.

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 C.F.R. § 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

At issue is the language "[a]ny time consumed by review by the Board of Patent Appeals and Interferences" of 37 C.F.R. § 1.702(b).

A notice of appeal was filed on July 21, 2010, and a notice of allowance was mailed on November 26, 2010. The 129 days of the over three year period consumed by appellate review, beginning on July 21, 2010 and ending on November 26, 2010, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

Patentee argues that the excluded period should total 58 days, and should run from the filing of the notice of appeal on July 21, 2010 until the mailing of a Notice of Panel Decision from Pre-Appeal Brief Review on September 17, 2010.[1, 2]

Patentee's argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 129 days, beginning on July 21, 2010, the date of filing of the notice of appeal and ending on November 26, 2010, the subsequent date of the mailing of a notice of allowance. Put another way, the excluded period terminated with the mailing of the notice of allowance on November 26, 2010, and not the mailing of a Notice of Panel Decision from Pre-Appeal Brief Review on September 17, 2010.

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[1] Petition, page 3.

[2] It is noted in passing that this period totals 59 days, not 58 days. Patentee has arrived at 58 days because he has erroneously included the date on which the notice of appeal was filed in the period of B-delay. The filing of the notice of appeal is the first day of the excluded appellate period. As such, the last day of B-delay that is prior to the commencement of the appellate excluded period that results from the filing of the notice of appeal on July 21, 2010 is July 20, 2010, and not July 21, 2010.

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.

CONCLUSION

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :
Sang-hoon Lee et al. :
Application No. 11/762,519 : DECISION ON PETITION
Filed: June 13, 2007 :
Attorney Docket No. Q101203 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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 September 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 December 8, 2010. A Notice of Abandonment was mailed on April 6, 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 2629 for appropriate action by the Examiner in the normal course of business on the reply received April 27, 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
www.uspto.gov

MAILED

JUN 13 2011

OFFICE OF PETITIONS

BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN CT 06840

In re Application of :
Gershon, David :
Application No. 11/762,542 : ON PETITION
Filed: June 13, 2007 :
Attorney Docket No. JG-RP-5242/500561.20113 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 2, 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, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

The Notice of Appeal filed May 2, 2011, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; 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) 272-3206.

This matter is being referred to Technology Center AU 1627 for further processing.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: JULES E. GOLDBERG
50F PONDVIEW ROAD
RYE, NY 10580

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of :
Pan et al. :
Application No. 11/762,573 :
Filed: June 13, 2007 :
Attorney Dkt. No. 18176US02 :
For: METHOD AND SYSTEM FOR A LINEARIZED TRANSMITTER INCLUDING A POWER AMPLIFIER :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE 37 CFR 1.705" filed November 3, 2010. Applicants request that the determination of patent term adjustment be corrected from six hundred twenty-one (621) days to nine hundred thirty-one (931) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED

MAR 0 1 2012

OFFICE OF PETITIONS

In re Application of :
Alexandra K. Heron et al :
Application No. 11/762,614 : DECISION GRANTING PETITION
Filed: June 13, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-3513US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 29, 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 February 14, 2012 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 2457 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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WPAT, PC
INTELLECTUAL PROPERTY ATTORNEYS
1100 QUAIL STREET, SUITE 202
NEWPORT BEACH CA 92660

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Application of :
Shen, Ein-Yiao :
Application No. 11/762,667 : ON PETITION
Filed: June 13, 2007 :
Attorney Docket No. 18706-035 :

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 Response to Office Action, including an Amendment, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2617 for further examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: BLAYNE D. GREEN
16325 BOONES FERRY ROAD, SUITE 204
LAKE OSWEGO, OR 97035

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of :
John A. KOLB :
Application No. 11/762,691 : DECISION ON PETITION
Filed: June 12, 2007 : TO WITHDRAW
Attorney Docket No. PROL10002700 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 James H. Salter on behalf of the attorneys of record associated with Customer No. 21186.

The attorneys of record associated with Customer No. 21186 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ANAMORPHIC SYSTEMS, INC.
2323 FLICKINGER AVENUE
SAN JOSE, CA 95131

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
11/762,691	06/13/2007	Jesse D. Hurley	2870.003US1

CONFIRMATION NO. 2244

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

POWER OF ATTORNEY NOTICE

OC000000045366405

Date Mailed: 01/10/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/02/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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LAWRENCE Y.D. HO & ASSOCIATES PTE LTD
30 BIDEFORD ROAD, #02-02, THONGSIA BUILDING
SINGAPORE 22992-2 SG SINGAPORE

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Chun Bao Zhu :
Application No. 11/762,742 :
Filed: June 13, 2007 :
Attorney Docket No. 1138.P019US-CON/GDL :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 14, 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 Lawrence N. Ginsberg 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.

All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed August 17, 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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CANTOR COLBURN, LLP-IBM
POUGHKEEPSIE
20 CHRUCH STREET
22ND FLOOR
HARTFORD, CT 06103

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of :
David A. Cohen, et al. :
Application No. 11/762,825 : DECISION ON PETITION
Filed: June 14, 2007 :
Attorney Docket No. POU920070061US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 14, 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 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the reply received October 5, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
LANGLEY RESEARCH CENTER
MAIL STOP 141
HAMPTON, VA 23681-2199

MAILED
APR 13 2011
OFFICE OF PETITIONS

In re Application of	:	
Travis L. Turner, et al.	:	
Application No. 11/762,827	:	ON PETITION
Filed: June 14, 2007	:	
Attorney Docket No.: LAR -17332-1	:	

This is a decision on the petition, filed March 1, 2011, to change the order of the names of the inventors under the provisions of 37 CFR 1.182.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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
11/762,827	06/14/2007	3741	2830	LAR -17332-1	42	6

CONFIRMATION NO. 2498

CORRECTED FILING RECEIPT

23351
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
LANGLEY RESEARCH CENTER
MAIL STOP 141
HAMPTON, VA 23681-2199

Date Mailed: 04/05/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Travis L. Turner, Newport News, VA;
Roberto J. Cano, Yorktown, VA;
Richard J. Silcox, Poquoson, VA;
Ralph D. Buehrle, Williamsburg, VA;
Christopher M. Cagle, Yorktown, VA;
Randolph H. Cabell, Hampton, VA;
George C. Hilton, Hampton, VA;

Assignment For Published Patent Application

Administrator of the National Aeronautics and and Space Administration, Washington, DC

Power of Attorney: The patent practitioners associated with Customer Number 23351

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/805,262 06/20/2006
and claims benefit of 60/895,202 03/16/2007

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: 03/10/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/762,827**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

JET ENGINE EXHAUST NOZZLE FLOW EFFECTOR

Preliminary Class

060

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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CHOATE, HALL & STEWART/CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Application of :
Jena J. JORDAHL :
Application No. 11/762,870 : DECISION ON PETITION
Filed: June 14, 2007 : TO WITHDRAW
Attorney Docket No. 2008680-0003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 10, 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 Brenda Herschbach Jarrell 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.

Telephone inquires 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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MAHAMEDI PARADICE KREISMAN LLP
550 WINCHESTER BOULEVARD
SUITE 605
SAN JOSE CA 95128

MAILED

DEC 09 2010

OFFICE OF PETITIONS

In re Application of :
Majid Aghababazadeh et al :
Application No. 11/763,001 : DECISION ON PETITION
Filed: June 14, 2007 :
Attorney Docket No. SILO.P104D1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 17, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). A Notice of Abandonment was mailed on July 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on August 6, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2891 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY
DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

MAILED

FEB 18 2011

OFFICE OF PETITIONS

In re Patent No. 7,803,128	:	
Christensen et al.	:	DECISION ON
Issue Date: 09/28/2010	:	REQUEST FOR
Application No. 11/763024	:	RECONSIDERATION: APPLICATION
Filing or 371(c) Date: 06/14/2007	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705(d)
6278.210-US	:	

This is in response to the REQUEST FOR RECONSIDERATION: APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d), filed on November 24, 2010. Patentee requests that the determination of patent term adjustment be corrected from 475 days to 485 days.

The request for reconsideration of patent term adjustment is **DISMISSED.**

On September 28, 2010, the above-identified application matured into U.S. Patent No. 7,803,128. The patent issued with a PTA of 475 days. The present request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent.

Patentees contest the reduction of 10 days in connection with the filing of a Certified Copy of a Foreign Priority Document, filed August 17, 2010. Patentees argue that the present application is a continuation of application 10/425,813, and all foreign priority documents were filed in that application. Moreover, Patentees aver, the Application Data Sheet ("ADS") properly noted the priority claim. Accordingly, the 10 debit days should not be counted against Patentees.

Patentees' arguments have been carefully considered. A review of the record reveals that a Certified Copy of a Foreign Priority Document was filed on August 17, 2010. On August 26, 2010 the Office acknowledged receipt of the Certified Copy of a Foreign Priority Document.

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. *See*, 37 CFR 1.704(c)(10) and *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). *See, also*, MPEP 2737. The MPEP 2737 continues as follows: Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; ***(5) a certified copy of a priority document***; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. (Emphasis added).

Here, the PTA was correctly reduced by a period of 10 day in accordance with 37 CFR 1.704(c)(10), beginning on the date the Certified Copy of a Foreign Priority Document was filed, August 17, 2010, and ending 10 days later, on the mail date of the Priority Acknowledgment, August 26, 2010.

In view thereof, it is concluded that the patent correctly issued with a revised Patent Term Adjustment of four hundred seventy-five (475) days, and no adjustment to the patent term will be made.

Receipt is acknowledged of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 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) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS MI 495

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Krebs et al. :
Application No. 11/763,067 : ON PETITION
Filed: June 14, 2007 :
Attorney Docket No. 71189-1860 :
For: SURFACE CLEANING APPARATUS
WITH ACCESSORY WORKING AIR PATH

This is a decision on the petition under 37 CFR 1.181, filed February 1, 2011, requesting withdrawal of the holding of abandonment in 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 restriction requirement, mailed July 12, 2010, which set forth an extendable one (1) month period for reply. No extension of time under 37 CFR 1.136(a) and no reply being received in the Office, the Office contended that this application became abandoned on August 13, 2010. A Notice of Abandonment was mailed on January 24, 2011.

Petitioner asserts the application is not abandoned because the examiner withdrew the restriction requirement in an Interview Summary dated August 25, 2010.

A review of the Interview Summary prepared by Examiner Redding reveals that he agreed the restriction requirement was mailed in error and he withdrew the restriction requirement.

In light of the above, the petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the January 24, 2011 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3723 for the mailing of an Office action on the merits of all of the claims.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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JOHN S. BEULICK (17851)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 08/03/2010

Applicant	: David Johnston	: DECISION ON REQUEST FOR
Patent Number	: 7655068	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/763,195	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **362** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
James A. Van Bosch, et al. :
Application No. 11/763,207 : ON PETITION
Filed: June 14, 2007 :
Attorney Docket No. CS33303RL :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 5, 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 January 6, 2011. The Notice of Abandonment was mailed April 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3621for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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SPRINKLE IP LAW GROUP / ZIMMER
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

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MAR 15 2012
OFFICE OF PETITIONS

In re Application of	:	
BERGERON, et al	:	
Application No. 11/763,268	:	DECISION ON PETITION
Filed: June 14, 2007	:	TO WITHDRAW
Attorney Docket No. ZIMM1120	:	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 15, 2012.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Katharina W. Schuster, has been revoked by the assignee of the patent application on February 9, 2012. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be sent to the address indicated below until otherwise notified by the applicant.

Inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SEAGER, TUFTE & WICKHEM, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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CORBIS CORPORATION
C/O FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

MAILED
JUN 27 2011
OFFICE OF PETITIONS

In re Application of
Curtis W.M. Bowden et al
Application No. 11/763,347
Filed: June 14, 2007
Attorney Docket No. 1361006-2019

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 May 31, 2011.

The request is **APPROVED**.

The request was signed by John W. Branch on behalf of all the practitioners of record and the practitioners associated with Customer Number 39179.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to assignee Corbis Corporation at the below address.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Corbis Corporation
Attn: Jen Hurley
710 2nd Avenue, Suite 200
Seattle, WA 98104

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/763,347	06/14/2007	Curtis W. M. Bowden	1361006-2019

CONFIRMATION NO. 3463

POWER OF ATTORNEY NOTICE

39179
Corbis Corporation
c/o Frommer Lawrence & Haug LLP
745 Fifth Avenue
NEW YORK, NY 10151

OC000000048438067

Date Mailed: 06/27/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/31/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/763,347	06/14/2007	Curtis W. M. Bowden	1361006-2019

CONFIRMATION NO. 3463

Corbis Corporation
Attn: Jen Hurley
710 2nd Avenue, Suite 200
Seattle, WA 98104

POA ACCEPTANCE LETTER

OC000000048438100

Date Mailed: 06/27/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/31/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Ryuichi Morishita et al	:	
Application No. 11/763,361	:	DECISION GRANTING PETITION
Filed: June 14, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6235-67174-02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 20, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1633 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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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,060,774 :
Issued: November 15, 2011 : DECISION ON REQUEST
Application No. 11/763,365 : FOR RECONSIDERATION
Filed: June 14, 2007 : OF PATENT TERM ADJUSTMENT
Attorney Docket No. 16113-1931001

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on January 17, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 457 to 602 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On November 15, 2011, the above-identified application matured into U.S. Patent No. 8,060,774, with a revised patent term adjustment of 457 days. On January 17, 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 602. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 24, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 145 day period from June 24, 2011 (the mailing date of the Notice of Allowance) until November 15, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 145 days and be increased from 457 to 602 days. Patentee concludes that the correct patent term adjustment is 602 days (the sum of 440 days of "A delay" and 251 days of "B delay" minus 89 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 106 days based on the application having been filed under 35 U.S.C.

111(a) on June 14, 2007 and the patent not having issued as of the day after the three year date, June 14, 2010, and requests for continued examination under 132(b) having been filed on September 29, 2010, January 20, 2011, and June 1,2011. In other words, the 145-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of

the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice

of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C.

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, requests for continued examination were filed on September 29, 2010, January 20, 2011, and June 1, 2011, and the patent issued by virtue of that request on November 15, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on September 29, 2010 and ending on November 15, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 457 days indicated on the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Treyz Law Group
870 Market Street, Suite 984
San Francisco CA 94102

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JAN 03 2011
OFFICE OF PETITIONS

In re Application of :
Smith et al. :
Application No. 11/763,512 : DECISION ON PETITION
Filed: June 15, 2007 : PURSUANT TO
Attorney Docket No.: 2007- : 37 C.F.R. § 1.137(B)
0136.00/US :
Title: IMAGER WITH HIGH :
SPEED DIGITAL FRAME TRANSFER :
AND FRAME PROCESSING :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 8, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 2, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on December 3, 2010. A Notice of Abandonment was mailed on December 16, 2010, subsequent to the filing of this petition.

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;

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(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 issue, publication, and petition fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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3 See Rule 1.137(d).
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

HONEYWELL/UOP
PATENT SERVICES
101 COLUMBIA DRIVE
P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

In re Application of :
Michael J. McCall, et al. :
Application No. 11/763,534 : DECISION ON PETITION
Filed: June 15, 2007 :
Attorney Docket No. H0014196 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 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 8, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed April 8, 2011. Accordingly, the date of abandonment of this application is July 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 $1510 and the publication fee of $300, (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 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

cc: ARTHUR E. GOODING
25 EAST ALGONQUIN ROAD
DES PLAINES, IL 60017

UNITED STATES PATENT AND TRADEMARK OFFICE

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COATS & BENNETT/QIMONDA
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :

Klaus HUMMLER, et al :
Application No. 11/763,593 : DECISION ON PETITION
Filed: June 15, 2007 : TO WITHDRAW
Attorney Docket No. 6343-056 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2010.

The request is **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 cannot be approved because the correspondence address is not that of an assignee of the entire interest who has properly become of record as set forth in 37 CRF 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WEISS & ARONS, LLP
1540 ROUTE 202, SUITE 8
POMONA NY 10970

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Yi SUN	:	
Application No. 11/763,682	:	ON PETITION
Filed: June 15, 2007	:	
Attorney Docket No. 761-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 2010, to revive the above-identified application.

The 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 11, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3693 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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SEP 26 2011

OFFICE OF PETITIONS

WEISS & ARONS, LLP
1540 ROUTE 202, SUITE 8
POMONA NY 10970

In re Application of :
Yi SUN :
Application No. 11/763,682 :
Filed: June 15, 2007 :
Attorney Docket No. 761-2 :

CORRECTED
DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 2010, to revive the above-identified application.

The 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 11, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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 3693 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/763,779	06/15/2007	Zahid Hussain	252209-1930	4287

24504 7590 07/20/2011

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA, GA 30339

EXAMINER
KANAAN, SIMON P

ART UNIT	PAPER NUMBER
2432	

NOTIFICATION DATE	DELIVERY MODE
07/20/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@tkhr.com
kristen.layton@tkhr.com
ozzie.liggins@tkhr.com

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

MAILED

JUN 19 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In Application of:
Hussain, Zahid et al.
Application No. 11/763779
Filed: June 15, 2007
For: SYSTEMS AND METHODS OF IMPROVED MOTION ESTIMATION USING A GRAPHICS PROCESSING UNIT

RESPONSE TO PETITION (OR REQUEST) FOR EXPLANATION OF DELAY

This is a response to Applicant's petition (or request) for explanation of delay filed on March 10, 2011. The application has been docketed for examination, and it is estimated that this application will receive an Office action in approximately 5 months. Any inquiry regarding this application should be directed to Gilberto Barron at (571) 272-3799.

/Chau Nguyen/

Chau Nguyen, Quality Assurance Specialist
Technology Center 2400
Networking, Multiplex, Cable and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/763,797	06/15/2007	Zahid Hussain	252209-1970	4342

24504 7590 05/27/2011

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

EXAMINER	
KABIR, JAHANGIR	

ART UNIT	PAPER NUMBER
2439	

NOTIFICATION DATE	DELIVERY MODE
05/27/2011	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):

uspatents@tkhr.com
kristen.layton@tkhr.com
ozzie.liggins@tkhr.com

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Daniel McClure
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

In re Application of: Zahid HUSSAIN
Application No. 11/763797
Filed: June 15, 2007
Atty. Docket No. 252209-1970
Title: SYSTEMS AND METHODS OF IMPROVED MOTION ESTIMATION USING A GRAPHICS PROCESSING UNIT

DECISION ON PETITION

This is a decision on petition filed March 10, 2011 requesting an explanation for delay in examination of the instant application.

A review of the record indicates this application belongs to a technology area with high back log and efforts have been made under the COPA (Clearing the Oldest Patent Applications) initiatives to expedite examination of applications with more than 16 months from filing.

Per MPEP 708, non-provisional applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed except for those applications in which examination has been advanced pursuant to 37 CFR 1.102.

The application is currently assigned to an examiner and will be examined in due course.

Accordingly, the petition is **DISMISSED as MOOT.**

Any inquiry regarding this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

/Kim Huynh/

Kim Huynh, WQAS
Technology Center 2400
Network, Multiplexing, Cable and Security

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APR 13 2011

OFFICE OF PETITIONS

NEIL STEINBERG
2300 M STREET, N.W., Suite 800
WASHINGTON, DC 20037

In re Application of :
Pavan Gupta, et al. :
Application No.: 11/763,801 : DECISION ON PETITION
Filed: June 15, 2007 :
Attorney Docket No.: SITI/0026 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 20, 2009 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 21, 2009. A Notice of Abandonment was mailed on November 20, 2009. On February 14, 2011, the present petition was filed.

The above-identified application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying of petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office). 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 response in the form of an amendment, including an election of the invention to be examined; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2811 for consideration of the response filed February 14, 2011.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

NOV 15 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of
MORRIS, ROBERT P. :
Application No. 11/763,805 : DECISION ON REQUEST
Filed: June 15, 2007 :
For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR CONTROLLING DATA TRANSMISSION BASED ON POWER COST** :

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 17, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Ken Wieder whose telephone number is (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Adam J. KOFFLER :
Application No. 11/763,840 : DECISION ON PETITION
Filed: June 15, 2007 : TO WITHDRAW
Attorney Docket No. 2580.002US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 23, 2010.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to Gary Speier and the attorneys associated with Customer No. 21186, has been revoked by the assignee of the patent application on August 13, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at (571) 272-6735.

/Diane C.Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: WOW CUSHION PRODUCTS LTD.
1300 NICOLLET AVENUE, SUITE 3059
MINNEAPOLIS MN 55403-2693

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAILED Paper No.
JUN 30 2011
OFFICE OF PETITIONS

Hovey Williams LLP
10801 Mastin Blvd., Suite 1000
Overland Park KS 66210

In re Application of	:	
Trimmer	:	
Application No. 11/763,866	:	DECISION ON PETITION
Filed: June 15, 2007	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
38270	:	
Title: CONCRETE FORM SYSTEM	:	
FOR LOW-CLEARANCE	:	
APPLICATIONS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 13, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED.**

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 21, 2010, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting formal drawings.[2] Accordingly, the above-identified application became abandoned on March 22, 2011. A Notice of Abandonment was mailed on April 6, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

1 Both the issue and publication fees were received concurrently with a copy of form PTOL-85b on March 9, 2011.
2 See MPEP § 710.02(e)(III).

(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, the proper statement of unintentional delay, and two pages of properly labeled replacement drawings containing Figures 1, 5, and 6.

As such, requirements two and three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is a reply which would have been sufficient to have avoided abandonment, had such reply been timely filed.[4] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1). More specifically, the replacement drawings are not in compliance with 37 C.F.R. § 1.121(a)[5] since an amendment directing the entry of the same has not been located in the electronic file.

On renewed petition, Petitioner should submit an amendment directing the entry of the replacement drawings that were submitted on April 13, 2011.

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3 See Rule 1.137(d).
4 See M.P.E.P. § 711.03(c).

5 37 C.F.R. § 1.121(a) sets forth, *in toto*: "[a]mendments 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."

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[10]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300: please note this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
10 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Hovey Williams LLP
10801 Mastin Blvd., Suite 1000
Overland Park KS 66210

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Trimmer	:	
Application No. 11/763,866	:	DECISION ON RENEWED
Filed: June 15, 2007	:	PETITION PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
38270	:	
Title: CONCRETE FORM SYSTEM	:	
FOR LOW-CLEARANCE	:	
APPLICATIONS	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed July 26, 2011, to revive the above-identified application.

This renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 21, 2010, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting formal drawings.[2] Accordingly, the above-identified application became abandoned on March 22, 2011. A Notice of Abandonment was mailed on April 6, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

---

1 Both the issue and publication fees were received concurrently with a copy of form PTOL-85b on March 9, 2011.
2 See MPEP § 710.02(e)(III).

(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 13, 2011, along with the petition fee, the proper statement of unintentional delay, and two pages of properly labeled replacement drawings containing Figures 1, 5, and 6.

The original petition was dismissed via the mailing of a decision on June 30, 2011, which indicated that requirements two and three of Rule 1.137(b) have been satisfied, and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

With this renewed petition, Petitioner has included two pages of replacement drawings along with an amendment directing the entry of the same. It follows that the first requirement of Rule 1.137(b) has been satisfied.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be

3 See Rule 1.137(d).

directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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NOV 04 2010

OFFICE OF PETITIONS

In re Application :
Steven J. Corso et al. :
Application No. 11/763,873 : DECISION ON APPLICATION
Filed: October 6, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-1158 :

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 October 20, 2010. Applicant requests that the determination of patent term adjustment be corrected from 720 to 914 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 is considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

---

[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.

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Alexandria, VA 22313-1450
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JOHN J. CONNORS
CONNORS & ASSOCIATES PC
#135I
13421 DANBURY LANE
SEAL BEACH CA 90740

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Nazli AZIMI	:	
Application No. 11/764,040	:	DECISION ON PETITION
Filed: June 15, 2007	:	
Attorney Docket No. 9971	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 reply in a timely manner to the Restriction Requirement, mailed January 27, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 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).

Petitioner did not include a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
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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JOHN J. CONNORS
CONNORS & ASSOCIATES PC
#135I
13421 DANBURY LANE
SEAL BEACH CA 90740

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DEC 05 2011

OFFICE OF PETITIONS

In re Application of :
Nazli AZIMI :
Application No. 11/764,040 : DECISION ON PETITION
Filed: July 15, 2007 :
Attorney Docket No. 9971 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 Restriction Requirement, mailed January 27, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Restriction Requirement of January 27, 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 1647 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

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Alexandria, VA 22313-1450
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BCF LLP
1100 RENE'-LE'VESQUE BLVD. WEST
25TH FLOOR
MONTREAL QC H3B-5C9 CA CANADA

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AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Simon Fortier et al. :
Application No. 11/764,041 : DECISION ON PETITION
Filed: June 15, 2007 :
Attorney Docket No. 18401-045 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on December 15, 2009, which set a period for reply of three (3) months. Accordingly, the application became abandoned on March 16, 2010 . A Notice of Abandonment was mailed on March 31, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly 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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THE BOEING COMPANY
c/o FELIX L. FISCHER, ATTORNEY AT LAW
1607 MISSION DRIVE
SUITE 204
SOLVANG CA 93463

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Russell L. Keller, et al.	:	
Application No. 11/764,078	:	DECISION ON PETITION
Filed: June 15, 2007	:	
Attorney Docket No. 06-1140	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 26, 2010. Accordingly, the date of abandonment of this application is October 27, 2010. The Notice of Abandonment was mailed November 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 27 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. 11/764,097	:	DECISION ON PETITION
Filed: June 15, 2007	:	TO WITHDRAW
Attorney Docket No. GAOS-2007021	:	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 for future communications from the Office has been changed and the new correspondence address is indicated below.

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: MARIA GAOS
22104 4TH PL 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
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
11/764,097	06/15/2007	Maria Gaos	GAOS-2007021

CONFIRMATION NO. 4932

46345
AEON LAW
1525 4TH AVE, STE 800
SEATTLE, WA 98101-1648

POWER OF ATTORNEY NOTICE

OC000000043715072

Date Mailed: 09/27/2010

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

Paper No.: _____

DATE : 02/19/11

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/764,134 Patent No.: 7761290

CofC mailroom date: 01/05/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Certificate of correction filed on January 5, 2011, is ok to enter. /AA/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/David R. Hudspeth/ 2626

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/19/11

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/764,134 Patent No.: 7761290

CofC mailroom date: 01/05/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[redacted]

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Certificate of correction filed on January 5, 2011, is ok to enter. /AA/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/David R. Hudspeth/ 2626

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI, L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
James H. Johnson, et. al. :
Application No. 11/764,362 : DECISION DISMISSING PETITIONS
Filed: June 18, 2007 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 048767/330296 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 28, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Since all the above requirements have been satisfied, the petition is **granted**.

The late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1625 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
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
11/764,362	06/18/2007	1625	1160	DFBP:064USC1/10913098	20	3

CONFIRMATION NO. 5467

CORRECTED FILING RECEIPT

32425
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Date Mailed: 09/22/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

James H. Johnson, Edenton, NC;
T.G. Sambandam, Uxbridge, MA;
Barry J. Hand, Acton, MA;
Christopher D. Howe, Beverly, MA;
Roland R. Franke, Gloucester, MA;
Brian A. Bucher, Boston, MA;
John S. Juchum, Kingston, NH;
Rex T. Gallagher, Hampton, NH;
Marc A. Plante, Middleton, MA;
Edward M. Desimone III, Indianapolis, IN;
Dong S. Yang, Quincy, MA;

Assignment For Published Patent Application

Natural Pharmaceuticals, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 32425

Domestic Priority data as claimed by applicant

This application is a CON of 10/549,490 ABN
which is a 371 of PCT/US04/08055 03/17/2004
which is a CON of 10/664,539 09/18/2003 PAT 6,956,123
which claims benefit of 60/456,478 03/21/2003
and claims benefit of 60/455,377 03/17/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/17/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/764,362**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PURIFICATION OF TAXANES AND TAXANE MIXTURES USING POLYETHYLENEIMINE-BONDED RESINS

Preliminary Class

549

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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The Marbury Law Group, PLLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of :
KLINE, Paul A. et al. :
Application No. 11/764,438 : DECISION ON PETITION
Filed: June 18, 2007 : TO WITHDRAW
Attorney Docket No. 2708-001CIP : 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 16, 2011.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because change of address will only be accepted to the first name inventor. Please provide first name inventor address.

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

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THE MARBURY LAW GROUP, PLLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of :
KLINE, Paul A. et al. :
Application No. 11/764,438 : DECISION ON PETITION
Filed: June 18, 2007 : TO WITHDRAW
Attorney Docket No. 2708-001CIP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Jon Roberts on behalf of all attorneys of record who are associated with customer No. 22208. All attorneys/agents associated with the Customer Number 22208 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 Paul Kline at the address indicated below. There is an outstanding Office action mailed May 16, 2011 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: **PAUL A. KLINE**
8516 DAKOTA DRIVE
GAITHERSBURG MD 20877

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Berthold et al.	:	DECISION ON PETITION
Application No. 11/764,500	:	TO WITHDRAW
Filed: June 18, 2007	:	FROM RECORD
Attorney Docket No. 2007P50067US	:	

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, 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 Schwegman, Lundberg & Woessner, P.A. 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 Schwegman, Lundberg & Woessner, P.A. not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the address listed below until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed June 10, 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

cc: INFINEON TECHNOLOGIES AG
PATENT DEPARTMENT
MUC 11.1.507
P.O. BOX 221644
Munich 80506 DE GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Application of	:	
Goyal et al.	:	
Application No. 11/764515	:	ON APPLICATION FOR
Filing or 371(c) Date: 06/18/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
15424US02	:	

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING NOTICE OF ALLOWANCE, filed February 14, 2011. Applicant requests that the Patent Term Adjustment be changed to reflect 928 days, not 588 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of
Skillern, et al.
Application No. 11/764,620
Filed: June 18, 2007
Attorney Docket No. **OAKLY1.342A**

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 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 Kenya A. McLaughlin at (571) 272-3222. 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 3754 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.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/764,620	06/18/2007	3754	710	OAKLY1.342A	20	2

CONFIRMATION NO. 5948

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000045355852

Date Mailed: 01/10/2011

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)

Jeff Skillern, Boise, ID;
James H. Sadler, Huntington, VT;

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/822,273 08/14/2006

Foreign Applications

If Required, Foreign Filing License Granted: 07/05/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/764,620**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

PRESSURIZED HYDRATION SYSTEM

Preliminary Class

222

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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MICHAEL BEST & FRIEDRICH LLP (CHI)
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE, SUITE 2000
CHICAGO IL 60601

MAILED

FEB 17 2012

OFFICE OF PETITIONS

In re Application of
Robert J. McMillen et al.
Application No. 11/764,628
Filed: June 18, 2007
Attorney Docket No. 41575-515

ON PETITION

This is a decision on the PETITION UNDER 37 C.F.R. 1.10(e) filed February 16, 2010, which is being treated as a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on July 1, 2009 for failure to file a timely response to the Final Office Action mailed March 30, 2009, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 11, 2009.

Petitioner asserts that a proper response in the form of a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 and one month extension of time was filed on July 30, 2009. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of mail dated July 30, 2009, pursuant to 37 CFR 1.8.

The evidence submitted corroborates a timely response to the Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee is due and none has been charged. The fee for the RCE and Extension of Time have been applied.

This matter is being referred to Technology Center 3636 for appropriate action on the RCE and amendment filed July 30, 2009, a copy of which was submitted with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Patent No.7,704,556 :
Issue Date: April 27, 2010 :
Application No. 11/764,745 : ON PETITION
Filed: June 18, 2007 :
Attorney Docket No. **1033230-000017** :

This is a decision on the petition filed August 13, 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 JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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.
11/764,758	06/18/2007	Roel van Ettinger	MIC-00006-1P	6212

22888 7590 08/04/2010

BEVER HOFFMAN & HARMS, LLP
901 Campisi Way
Suite 370
Campbell, CA 95008

EXAMINER
HAN, YOUNGHUIE JESSICA

ART UNIT	PAPER NUMBER
2838	

NOTIFICATION DATE	DELIVERY MODE
08/04/2010	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):

mserna@beverlaw.com
creddick@beverlaw.com

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. 7,656,139	:	
Issue Date: February 2, 2010	:	**DECISION GRANTING**
Appl No.: 11/764,758	:	**PETITION**
Filed: June 18, 2007	:	*37 CFR 1.324*
For: Creating Additional Phase Margin In The Open Loop Gain Of A Negative Feedback Amplifier System Using A Boost Zero Compensating Resistor	:	

This is a decision on the petition filed June 25, 2010 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Monica Lewis/
Monica Lewis
Supervisory Patent Examiner
Art Unit 2838
Technology Center 2800

BEVER HOFFMAN & HARMS, LLP
901 Campisi Way
Suite 370
Campbell, CA 95008

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: July 30, 2010
TO: Certificates of Correction Branch
FROM: Monica Lewis
SPE, Art Unit 2838
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,656,139 as specified on the attached Certificate.

/Monica Lewis/
Monica Lewis, SPE
Art Unit 2838

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,656,139
Patented: February 2, 2010

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Christian Gater
Tanglewood, St. Marys Drive
Dunblane, Scotland FK 15 OHB

Paul Wilson
80 St. Magdalenes
Linlithgow, Scotland EH49 6AO

Roel van Ettinger
110 Inch Wood Avenue
Bathgate, UK EH48 2EF

/Monica Lewis/
Monica Lewis
Supervisory Patent Examiner
Art Unit 2838

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-16-2011

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No: 11/764,768 Patent No: 7863031

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (Co f C
Randolph Square – 9D10-

EvaJames

Should request be entered?

703-756-1583 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

The correction would be against the MPEP (form paragraph 7.45, MPEP 608.01(n)). The change requires that claims 19, 21-23, 25-26, 28-31, 33, 34-37, 40-43, which are multiple dependent claims, to be dependent upon claim 17. Claim 17 is also a multiple dependent. Claim 17 as well as the claims they are being amended all depend from claims 1-16. A multiple dependent claim cannot depend from another multiple dependent claim.

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

SPE

1652
Art Unit

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Alexandria, VA 22313-1450
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3-14-2011

Patent No. : 7,863,031 B2
Serial No. : 11/764,768
Inventor(s) : Jay M. Short
Issued : January 4, 2011

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in cols. 52-54, the correction would be against the MPEP (form Paragraph 7.45, MPEP 608.01(n)). The change requires that claims 19, 21-23, 25-26, 28-31, 33, 34-37, 40-43, which are multiple dependent claims, to be dependent upon claim 17. Claim 17 is also a multiple dependent. Claim 17 as well as the claims they are being amended. All depend from claims 1-16. A multiple dependent claim cannot depend from another multiple dependent claim.

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)

Verenium Corporation
Intellectual Property Department
P.O. Box 910550, San Diego CA 92191-0550

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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MAY 02 2011

OFFICE OF PETITIONS

In re Application of :
Roy Cooley et al. :
Application No. 11/764,832 : DECISION ON PETITION
Filed: June 19, 2007 :
Attorney Docket No. **RSSO-02USC1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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, September 17, 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 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 $1620, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 17, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1774 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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JAN 18 2011

OFFICE OF PETITIONS

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of :
HIROMICHI TAKEMURA ET AL. :
Application No. 11/764,870 : DECISION ON PETITION
Filed: June 19, 2007 :
Attorney Docket No. :
038920.55820D1

This is a decision on the petition, filed November 4, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition 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 March 2, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 1, 2010.

Petitioner asserts that the Notice dated March 2, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item (3) of the above-stated requirements.

The evidence submitted with the instant petition does not correspond to a date that is three months from the mail date of the Office action. Therefore, petitioner needs to submit a copy of the **master docket** report showing **all** replies docketed for a date of three months from the March 2, 2010, mail date of the nonreceived Office action as documentary proof of nonreceipt.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of March 2, 2010, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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 JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MAR 28 2011

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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of :
HIROMICHI TAKEMURA ET AL. :
Application No. 11/764,870 : DECISION ON PETITION
Filed: June 19, 2007 :
Attorney Docket No. **038920.55820D1** :

This is a decision on the renewed petition, filed February 2, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed March 2, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 1, 2010.

Petitioner asserts that the Notice dated March 2, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993). The instant renewed petition satisfies the above stated requirements.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3656 technical support staff for **re-mailing** the final Office action of March 2, 2010. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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EDELL , SHAPIRO & FINNAN , LLC
1901 RESEARCH BOULEVARD , SUITE 400
ROCKVILLE MD 20850

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Jochen Reisinger	:	
Application No. 11/764,898	:	DECISION ON PETITION
Filed: June 19, 2007	:	
Attorney Docket No. 3002.0226C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 16, 2010. Accordingly, the date of abandonment of this application is June 17, 2010. The Notice of Abandonment was mailed July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Office of Data Management for processing into a patent.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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REGINALD F. ROBERTS JR
1422 HEARTHSTONE DRIVE
BATON ROUGE LA 70808-1161

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of :
GLEASON, et al :
Application No. 11/764,981 : **DECISION ON PETITION**
Filed: June 19, 2007 :
Attorney Docket No. R282 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination 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 7, 2009. A Notice of Abandonment was mailed December 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 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 1797 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

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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Yasantha Nirmal Rajakarunanayake	:	
Application No. 11/765047	:	ON APPLICATION FOR
Filing or 371(c) Date: 06/19/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
18400US01	:	

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING NOTICE OF ALLOWANCE, filed December 15, 2010. Applicant proposes that the correct Patent Term Adjustment is 613 days, not 330 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

APR 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Yasantha Rajakarunanayake	:	
Patent Number: 7,890,986	:	DECISION ON APPLICATION
Issue Date: 02/15/2011	:	FOR RECONSIDERATION OF
Application No. 11/765047	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/19/2007	:	
Attorney Docket Number: 18400US01	:	

This is a decision on the petition filed on April 14, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty-seven (557) 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-seven (557) days is **GRANTED to the extent indicated herein**.

Background

The Office errantly assessed a reduction of 55 days to Patentees pursuant to 37 CFR 1.704(c)(10), in connection with the filing of Amendment under 37 CFR 1.312, filed December 23, 2010. The correct reduction, 15 days, commencing on December 23, 2010, the date that Amendment was filed, and ending January 6, 2011, the mailing date of the Office action in response to the Amendment.

The present petition

Patentees argue that the reduction pursuant to 37 CFR 1.704(c)(10), is inconsistent with the way the Office calculates all other patent term adjustments, and most reductions, save those calculated under 35 U.S.C. § 154(b)(1)(C) due interferences, secrecy orders and appeals. Patentee concludes that the Office policy for calculating the effect of filing a post-allowance paper on accrual of the three-year guarantee is in error and provides a PTA one day shorter than it should be, and Patentee requests an additional day of Patent Term Adjustment.

Opinion

Patentees arguments have been carefully considered. Patentees' attention is directed to 35 U.S.C. § 154(b)(2)(C), REDUCTION OF PERIOD OF ADJUSTMENT, and section (iii), which states: "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." Pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), the Director prescribed, inter alia, 37 CFR 1.704(c)(10), which states that the submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, shall reduce the period of adjustment set forth in § 1.703 by the lesser of:

> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months;

In this instance, and pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), and 37 CFR 1.704(c)(10), the correct period of patent term reduction is properly reduced 15 days, beginning on December 23, 2010, the date that Amendment was filed, and ending on January 6, 2011, the mailing date of the Office action in response to the Amendment.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred fifty-six **(556)** days (adjustments of 633 less reductions of 77 days less.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,890,986 B2

DATED : **February 15, 2011**

INVENTOR(S) : Rajakarunanayake

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 516 days.

Delete the phrase "by 516 days" and insert – by 556 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/11

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 11765113 Patent No.: 7841075

CofC mailroom date: 02/22/11

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

[redacted] the Director's SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: NONE

/Derris H. Banks/ 3729

SPE **Art Unit**

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MAILED

SEP 22 2010

OFFICE OF PETITIONS

KIMSEY PATENT SERVICES, LLC
804 SHAMROCK AVENUE
BOONVILLE, MO 65233

In re Application of
Melvin Corlija
Application No. 11/765,130
Filed: June 19, 2007
Attorney Docket No.: None

ON PETITION

This is a decision in response to the petition, filed July 21, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 23, 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 May 23, 2009. A Notice of Abandonment was mailed on September 16, 2009. On July 10, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on January 4, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 3673 for appropriate action by the Examiner in the normal course of business on the amendment received July 21, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: R. SCOTT KIMSEY
SPENCER, FANE, BRITT & BROWNE
1000 WALNUT STREET
SUITE 1400
KANSAS CITY, MO 64106-2140

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL J. COLITZ, JR.
640 Douglas Avenue
DUNEDIN FL 34698

MAILED

JAN 12 2012

OFFICE OF PETITIONS

In re Application of :
John E. Nohren Jr. :
Application No. 11/765,137 : ON PETITION
Filed: June 19, 2007 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 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 June 13, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional

information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1). Accordingly, the petition cannot be granted at the time.

As to item (1)

Petitioner states in the instant petition that a reply was filed in the form a Continuation-in-Part Application (CIP). However, there is no record of a CIP having been filed that is associated with this application. Therefore, in filing a renewed petition, petitioner must provide the filing date and application number associated with the CIP in question.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL J. COLITZ, JR.
640 Douglas Avenue
DUNEDIN FL 34698

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FEB 13 2012

OFFICE OF PETITIONS

In re Application of :
John E. Nohren Jr. :
Application No. 11/765,137 : ON PETITION
Filed: June 19, 2007 :
Attorney Docket No. **NJ 03/03** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 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 June 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of 810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/317,762.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/765,163	06/19/2007	Bernard O. GEAGHAN	57120US012	6982

32692 7590 01/27/2011

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER	
CHOWDHURY, AFROZA Y	
ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
01/27/2011	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):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

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TECHNOLOGY CENTER 2600

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of:
GEAGHAN, BERNARD O.,et al
Application Serial No.: 11/765,163
Filed: June 19, 2007
For: **TOUCH PANEL SYSTEM AND METHOD FOR DISTINGUISHING MULTIPLE TOUCH INPUTS**

DECISION
ON PETITION

This is a decision on the petition filed November 15, 2010 under 37 CFR § 1.181, requesting the Director to invoke his supervisory authority and withdraw the finality of the final Office action mailed September 16, 2010.

PERTINENT BACKGROUND

A first Office action was issued March 31, 2010 rejecting claims 1-24 on the grounds of nonstatutory obviousness-type double patenting over claims 1-13 of US Patent No. 7,254,775. Claims 1-6 and 24 were rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1-16 of copending Application No. 11/275,976. Claims 1, 5, and 24 were rejected under 35 USC 103(a) as being unpatentable over Lee (US Patent 6,023,265) in view of Shieh (US Patent 6,067,079). Claims 2-4, and 6-23 were rejected under 35 USC 103(a) as being unpatentable over Lee in view of Shieh and further in view of Kent(US Patent 5,854,450).

A response to the first Office action was timely filed and received in the US Patent and Trademark Office on June 30, 2010. No claims were amended.

A Final Office action was issued on September 16, 2010 again rejecting claims 1-24 on the grounds of nonstatutory obviousness-type double patenting over claims 1-13 of US Patent No. 7,254,775. Claims 1-6 and 24 were rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1-16 of copending Application No. 11/275,976. Claims 1, 5, and 24 were rejected under 35 USC 103(a) as being unpatentable over Lee (US Patent 6,023,265) in view of Shieh (US Patent 6,067,079). Claims 2-4, and 6-23 were rejected under 35 USC 103(a) as being unpatentable over Lee in view of Shieh and further in view of Kent(US Patent 5,854,450).

On November 15, 2010, Petitioner seeks relief by filing a petition under 37 CFR 1.181 requesting the finality of the Final Office action of September 16, 2010 be withdrawn.

REGULATIONS AND PRACTICE

37 CFR § 1.113(a) states in part that:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's or patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191) or to amendment as specified in § 1.116. ...

MPEP § 706.07(a) states in part that:

> Under present practice, second or any subsequent action on the merits shall be final, except where the examiner introduces a new ground of rejection that is (not) necessitated by applicant's amendment of the claims...

MPEP 1207.03 III states in part that:

> There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976).

OPINION

Petitioner submits that the final Office Action dated September 16, 2010, contains new grounds of rejection that are not necessitated by amendment and fails to answer all matters traversed by Petitioner. Petitioner also submits that the finality of the instant Office Action is improper because the Examiner fails to address all of Applicant's previous arguments. The Examiner fails to respond to Petitioner's arguments regarding teaching away and the impropriety of the asserted combination. Accordingly, the instant Office Action has been improperly made final, and Petitioner respectfully requests the finality be withdrawn. Thus, for this reason and those uncontested arguments as discussed below, any new reasons presented would constitute new grounds of rejection. Petitioner continues by alleging it would not be proper to materially-change the precise reason for the rejection without acknowledging that such a change would represent a new ground of rejection. Therefore, should the precise reason for any of the rejections change, the Examiner must acknowledge such changes as a new ground of rejection.

A review of the record finds that the grounds of rejection was not changed by the examiner from the non-final Office action mailed March 31, 2010 and the subsequent final rejection mailed September 16, 2010. Furthermore, the precise reason for the rejection of claims identified in the non-final rejection is identical to the reason given in the final rejection. Upon reviewing the Examiner's Final rejection response on September 16, 2010, it does not appear that examiner responded to Petitioner's arguments regarding teaching away and the impropriety of the asserted combination. However, the examiner has since mailed a new final office action in response to this petition on January 21, 2011.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the Final Office action mailed August 13, 2010 is **DISMISSED**.

The three month shortened statutory period for response set forth in the Final Office action of January 21, 2011 continues to run from the date of the final office action.

John L. LeGuyader, Director
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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STEPTOE & JOHNSON, PLLC
400 WHITE OAKS BOULEVARD
BRIDGEPORT, WV 26330

MAILED

AUG 2 7 2010

OFFICE OF PETITIONS

In re Application of
Richard J. Higgins, et al.
Application No. 11/765,231
Filed: June 19, 2007
Attorney Docket No. 234080.00001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 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 request was signed by Michael B. Pallay on behalf of himself. Michael B. Pallay has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are o pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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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SLATER & MATSIL LLP
17950 PRESTON RD SUITE 1000
DALLAS TX 75252-5793

MAILED
JAN 26 2012
OFFICE OF PETITIONS

In re
Brar, et al.
Application No. 11/765,252
Filed: June 19, 2007
Attorney Docket No. CDW-009A

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 23, 2011.

The fee deficiency submission under 37 CFR 1.28 of $465 for the RCE fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 1/28/2011

TO SPE OF : ART UNIT 2181

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/765282 Patent No.: 7853725B2

CofC mailroom date: 1/2/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE

2181
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SIMMONS PERRINE MOYER BERGMAN PLC
CITY CENTER SQUARE
1100 - 5th Street Suite 205
CORALVILLE, IA 52241

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Application of Sauser et al. :
Application No. 11/765,341 : Decision on Petition
Filing Date: June 19, 2007 :
Attorney Docket No. 07S1923 :

This is a decision on the petition under 37 CFR 1.137(b) filed February 2, 2012, 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 issued October 25, 2011, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 26, 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, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of payment of the issue fee and publication fee, (2) the required petition fee of $1,860, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

The Office of Data Management 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT ADMINISTRATOR
CABOT CORPORATION
5401 VENICE AVENUE, NW
ALBUQUERQUE, NM 87113

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re Application of
Toivo T. Kodas, et al.
Application No. 11/765,347
Filed: June 19, 2007
Attorney Docket No. 334300.00144

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2011, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 16, 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 May 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, 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 with the petition on August 23, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to 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 1712 for appropriate action by the Examiner in the normal course of business on the reply received August 23, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHERIDAN ROSS, PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Jack S. Drose, et. al.	:	
Application No. 11/765,425	:	DECISION ON PETITION
Filed: June 19, 2007	:	TO WITHDRAW FROM
Attorney Docket No. 5640-1	:	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 October 2 1, 2010.

The request is **APPROVED**.

The request was signed by Dennis J. Dupray on behalf of himself and all attorneys/agents associated with Customer Number 22442. Therefore, Dennis J. Dupray and all the attorneys/agents associated with Customer Number 22442 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the assignee at the address listed below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: IT Portfolio, Inc.
279 W. Sylvestor Place
Littleton, CO 80129

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
11/765,425	06/19/2007	Jack S. Drose	5640-1

CONFIRMATION NO. 7453

22442
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

POWER OF ATTORNEY NOTICE

Date Mailed: 01/11/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amsmith/

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

AUG 0 4 2010

Commissioner for Patents
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LOUIS J. HOFFMAN, P.C.
11811 North Tatum Boulevard, Suite 2100
Phoenix AZ 85028

In re application of:
Shkedi, Roy
Application No.: 11/765,433
Filed: June 19, 2007
For: PROVIDING COLLECTED PROFILES TO MEDIA PROPERTIES HAVING SPECIFIED INTERESTS

: **DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(d)**

This is a decision on the request filed June 1, 2010 to participate in the Patent Prosecution Highway Program (PPH). Based on the relationship between the instant application and its corresponding PCT application, this request will be treated as a request to participate in the pilot Patent Prosecution Highway (PPH) program between the USPTO and the KIPO based on PCT treaty work products and the petition under 37 C.F.R. § 1.102(d) to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in this PPH pilot program and petition to make special require (see 1355 OG 319):

> (1) The relationship between the corresponding U.S. application for which participation in the PCT-PPH pilot program is requested and the PCT application satisfies one of the following requirements:
>
> (a) The U.S. application is a national stage entry of the corresponding PCT application.
>
> (b) The U.S. application is a national application which forms the basis for the priority claim in the corresponding PCT application.
>
> (c) The U.S. application is a national stage entry of another PCT application (which can be filed in any competent receiving office) which claims priority to the corresponding PCT application.
>
> (d) The U.S. application is a national application claiming foreign/domestic priority to the corresponding PCT application.

(e) The U.S. application is a continuing application (continuation, divisional, or continuation-in-part) of the U.S. application which satisfies one of the above (a) through (d) scenarios.

2) The latest work product in the international phase of the PCT application corresponding to the U.S. application, namely, the WO/ISA, or the WO/IPEA, or the IPER, indicates at least one claim in the PCT application has novelty, inventive step and industrial applicability. In case any observation is described in Box VIII of the WO/ISA, WO/IPEA, or IPER which forms the basis for the PCT-PPH request, applicant must identify and explain why the claim(s) is/are not subject to any observation described in Box VIII irrespective of whether an amendment is submitted to correct the observation described in Box VIII. The U.S. application will not be eligible to participate in the PCT-PPH pilot program if applicant does not identify and explain why the claim(s) is/are not subject to the observation described in Box VIII.

(3) Claim Correspondence:

(a) All of the claims in each U.S. application for which a request for participation in the PCT-PPH pilot program is made must sufficiently correspond to or be amended to sufficiently correspond to one or more of those claims indicated as having novelty, inventive step and industrial applicability and be free of any observation described in Box VIII in the latest work product of the corresponding PCT application.

(b) Claims are considered to "sufficiently correspond" where, accounting for differences due to translations and claim format requirements, the claims in the U.S. application are of the same or similar scope as the claims indicated as having novelty, inventive step and industrial applicability and free of any observation described in Box VIII in the latest work product of the corresponding PCT application, or the claims in the U.S. application are narrower in scope than the claims indicated as having novelty, inventive step and industrial applicability and free of any observation described in Box VIII in the latest work product of the corresponding PCT application.

(c) In this regard, a claim that is narrower in scope occurs when a claim indicated as having novelty, inventive step and industrial applicability and free of any observation described in Box VIII in the latest work product of the corresponding PCT application is amended to be further limited by an additional feature that is supported in the written description of the U.S. application. The claim(s) with the narrower scope must be written in dependent form in the U.S. application for which participation in the PCT-PPH pilot program is requested.

(4) Substantive examination of the U.S. application for which participation in the PCT-PPH pilot program is requested has not begun.

(5) Applicant must file a request for participation in the PCT-PPH pilot program and a request that the U.S. application be advanced out of turn for examination by order of the Director to expedite the business of the Office under 37 CFR 1.102(a).

(6) Unless already filed in the U.S. application for which participation in the PCT-PPH pilot program is requested, applicant must submit a copy of the latest international work product, WO/ISA, or WO/IPEA or IPER, which indicated that the claim(s) has/have novelty, inventive step and industrial applicability along with an English translation thereof if the copy of the latest international work product is not in the English language. A statement that the English translation is accurate is not required. Where the required documents have been previously filed in the U.S. application, applicant may simply refer to these documents and indicate in the request for participation in the PCT-PPH pilot program when these documents were previously filed in the U.S. application. Where the U.S. application and the corresponding PCT application satisfy the relationship noted in (1)(a) above, applicant need not submit a copy of the latest international work product along with an English translation thereof since a copy of these documents is already contained in the file wrapper of the U.S. application.

(7) Unless already filed in the U.S. application for which participation in the PCT-PPH pilot program is requested, applicant must submit a copy of the claims from the corresponding PCT application which were indicated as having novelty, inventive step and industrial applicability in the latest work product of the PCT application along with an English translation thereof and a statement that the English translation is accurate if the claims are not in the English language. Where the required documents have been previously filed in the U.S. application, applicant may simply refer to these documents and indicate in the request for participation in the PCT-PPH pilot program when these documents were previously filed in the U.S. application. If the claims in the U.S. application for which participation in the PCT-PPH pilot program is requested are identical to the claims from the corresponding PCT application, and are in the English language, applicant may just indicate such in the PCT-PPH request and it will not be necessary for applicant to submit a copy of the claims from the corresponding PCT application.

(8) Applicant is required to submit a claims correspondence table in English. The claims correspondence table must indicate how all the claims in the U.S. application sufficiently correspond to the claims indicated as having novelty, inventive step and industrial applicability in the latest international work product.

(9) Applicant must submit an information disclosure statement (IDS) listing the documents cited in the international work products (ISR, WO/ISA, WO/IPEA, IPER) of the PCT application corresponding to the U.S. application for which participation in the PCT-PPH pilot program is requested (unless such an IDS has already been filed in the U.S. application, in which case applicant may simply refer to the previously filed IDS and indicate in the request for participation in the PCT-PPH pilot program when the IDS was previously filed in the U.S. application). Applicant must submit copies of all the documents cited in the international work products of the PCT application corresponding to the U.S. application (unless the copies have already been filed in the U.S. application, in which case applicant may simply refer to the previously filed copies of the documents and indicate in the request for participation in the PCT-PPH pilot program when the copies were previously filed in the U.S. application) except U.S. patents or U.S. patent application publications.

(10) The request for participation in the PCT-PPH pilot program and all the supporting documents must be submitted to the USPTO via EFS-Web and indexed with the following document description: "Petition to make special under PCT-Patent Pros Hwy."

In light of the petition and supporting submissions filed June 1, 2010 and the IDS of February 22, 2008, the request to participate in the PPH program complies with the above requirements and the above identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

All other queries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system or the examiner of record in the application.

Robert Weinhardt
Business Practice Specialist
Technology Center 3600

RW/8/3/10

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/765,490	06/20/2007	Gary R. Miller	93799JLT	7593

7590 09/17/2010

Andrew J. Anderson, Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

EXAMINER	
ROBINSON, CHANCEITY N	
ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
09/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mailed: SEP 17 2010 wk

In re application of :
Miller et al. : DECISION ON
Serial No. 11/765,490 : PETITION
Filed: June 20, 2007 :
For: USE OF HIGHLY ALKALINE DEVELOPER REGENERATOR COMPOSITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on May 27, 2010 to request entry of the Amendment filed on May 10, 2010. A Final Rejection was mailed March 9, 2010. Applicants filed a Rule 116 amendment on May 10, 2010 in which the Applicants amended claim 1 to incorporate the subject matter of Claim 4 and to correct a typographical error. Claim 10 was amended by removing the word "optionally". Claim 20 was amended to incorporate the subject matter of Claim 21. The Examiner issued an Advisory Action on May 13, 2010 that indicated the amendment would not be entered because the newly amended claims would raise new issues that would require further consideration and/or search.

Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments filed after a final rejection, but before or on the date of filing an appeal, complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § 1206. It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection.

A review of the record indicates that claims 2, 4, 5, 7-9, 22 and 12 depend from claim 1. Claim 11 depends from claim10 and claim 21 depends from claim 20. Claims 1, 2, 4, 5, 10, 11 and 20-23 were rejected as being unpatentable over the claim of commonly assigned US Patent 7,316,894. Applicants have filed a Terminal Disclaimer to overcome this rejection. The Terminal Disclaimer has been approved.

The Amendment of May 10, 2010 is to be entered.

DECISION

The petition is **GRANTED**.

/W. GARY JONES/
W. Gary Jones, Director
Technology Center 1700
Chemical and Materials Engineering

Andrew J. Anderson, Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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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.
11/765,550	06/20/2007	Mark Carlson	16222U-024910US	7695

66945 7590 10/13/2010

TOWNSEND AND TOWNSEND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

EXAMINER	
WINSTON III, EDWARD B	

ART UNIT	PAPER NUMBER
3686	

MAIL DATE	DELIVERY MODE
10/13/2010	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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OCT 13 2010

TOWNSEND AND TOWNSEND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

In re Application of	:	
Mark CARLSON et al.	:	DECISION ON PETITION
Application No. 11/765,550	:	UNDER 37 CFR §1.181
Filed: June 20, 2007	:	
For: DISTRIBUTION OF HEALTH	:	
INFORMATION FOR PROVIDING	:	
HEALTH RELATED SERVICES	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed September 10, 2010 requesting withdrawal of the finality of the Office action mailed August 13, 2010.

The petition is **GRANTED.**

The record reflects that on March 29, 2010 a non-final Office action was mailed rejecting claims 1-4, 6-22 under 35 U.S.C. 102 by Squilla et al., and claim 5 under 35 U.S.C. 103 by Squilla et al. in view of Bergelson. On April 27, 2010 applicant filed a response amending claims 1, 6-9, 14, 15, 18-20 and 23, and cancelling claims 4, 13, 17 and adding new claims 23-27. On June 18, 2010 a final Office action was mailed rejecting claims 1-3, 6-12, 14-16 and 18-27 under 35 U.S.C. 103 as unpatentable over Squilla et al. in view of Kimak, and claim 5 under U.S.C. 103 by Squilla et al. in view of Kimak and Bergelson.

In the petition filed September 10, 2010 to withdraw the finality of the Office action mailed August 13, 2010, applicant argues that the amendment of April 27, 2010 does not necessitate a new ground of rejection to claims 1, 9 and 15 because these claims were amended to be exactly the same as cancelled claims 4, 13 and 17, respectively.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record indicates the amended claim 1 is the same as the cancelled claim 4, the amended claim 9 is the same as the cancelled claim 13 and the amended claim 15 is the same as

the cancelled claim 17. Therefore, with regard to the propriety of the finality of the office action mailed August 13, 2010, the new grounds of rejection of claims 1, 9 and 15 were not necessitated by the April 27, 2010 amendment.

The finality of the August 13, 2010 action is hereby withdrawn.

Any questions concerning this petition should be directed to Quality Assurance Specialist Lanna Mai at 571-272-6867.

Wynn Coggins, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5350

lm: 9/29/10
lm

UNITED STATES PATENT
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P.O. Box 1450
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Date Mailed :April 14, 2011
Patent No. : 7,900,584 B2
Ser. No. :11/765661
Issued March 8, 2011
Inventor(s) : Stanley L.Suring, et al.
Title : ANIMAL ENTERTAINMENT DEVICE

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Boyle Fredrickson, S.C.
840 North Plankinton Ave.
Milwaukee, WI 53203

MD/mt

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MAILED

JUN 14 2011

OFFICE OF PETITIONS

BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE, WI 53203

In re Patent of Suring et al. :
Patent No. 7,900,584 :
Issue Date: March 8, 2011 : Letter
Application No. 11/765,661 :
Filing Date: June 20, 2007 :
Attorney Docket No. 91.022 :

This is a letter in response to "Request to Correct Assignee" filed May 24, 2011, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> 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.

Pursuant to 37 CFR 3.81(b), a request to have a patent corrected to add, or change, an assignee's name must:

1. State an assignment to the assignee was recorded before issuance of the patent,
2. Include a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a), and
3. Include the fee set forth in 37 CFR 1.17(i).

Patentees have met the requirements set forth above. Therefore, the request is granted.

The required fee of $130 has been charged to Deposit Account No. 50-1170.

The Certificates of Correction Branch will be informed of the instant decision and will issue the requested certificate of correction in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Morgan Lewis & Bockius LLP (GOT)
1111 Pennsylvania Avenue NW
Washington DC 20004

MAILED

MAR 20 2012

OFFICE OF PETITIONS

In re Application of :
Robert S. Cok :
Application No. 11/765,686 : DECISION ON PETITION
Filed: 06/20/2007 :
Attorney Docket No. 001444-5273-01 :
:

This is a decision on the petition under 37 CFR 1.78(a)(3) filed February 24, 2012, to accept an unintentionally delayed benefit claim under 35 U.S.C. 120 of prior-filed nonprovisional applications.

The petition under 37 CFR 1.78(a)(3) is **dismissed.**

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The proposed amendment to claim benefit to the prior-filed applications cannot be entered because the Examiner has determined that the proposed amendment raises new issues that would require further consideration and/or search. Accordingly, submission of a Request for Continued Examination (RCE) and fee are required as a condition for acceptance of the delayed benefit claim under 37 CFR 1.78(a)(3).

If reconsideration of this decision is desired, applicant must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by a RCE and fee. No additional petition fee is necessary for filing a renewed petition under 37 CFR 1.78(a)(3).

The Office reminds applicant that the three-month shortened statutory period for response to the final Office action continues to run from the mailing date of December 7, 2011. Extensions of time are available pursuant to 37 CFR 1.136(a).

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:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Morgan Lewis & Bockius LLP (GOT)
1111 Pennsylvania Avenue NW
Washington DC 20004

MAILED
APR 10 2012
OFFICE OF PETITIONS

In re Application of :
RONALD S. COK : DECISION GRANTING PETITION
Application No. 11/765,686 : UNDER 37 CFR 1.78(a)(3)
Filed: June 20, 2007 :
Attorney Docket No. 001444-5273-01 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 9, 2012, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications.

The renewed petition is **GRANTED.**

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim of 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 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 claim under 35 U.S.C. 120 for the benefit of the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2629 for consideration by the examiner of applicant's entitlement to claim benefit under 35 U.S.C. 120 of the prior-filed applications.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/765,686	06/20/2007	2629	1630	001444-5273-01	18	2

CONFIRMATION NO. 7946

14348
Morgan Lewis & Bockius LLP (GOT)
1111 Pennsylvania Avenue
NW
Washington, DC 20004

CORRECTED FILING RECEIPT

Date Mailed: 04/11/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ronald S. Cok, Rochester, NY;

Power of Attorney: The patent practitioners associated with Customer Number 009629

Domestic Priority data as claimed by applicant

This application is a CIP of 11/512,940 08/30/2006 ABN
and is a CIP of 11/268,253 11/07/2005

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: 07/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/765,686**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR UNIFORMITY AND BRIGHTNESS CORRECTION IN AN ELECTROLUMINESCENT DISPLAY

Preliminary Class

345

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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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
Greg R. Black, et al. :
Application No. 11/765,764 : ON PETITION
Filed: June 20, 2007 :
Attorney Docket No.: CS27935RL(041-0053) :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 10, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before December 21, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 21, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 22, 2010. A Notice of Abandonment was mailed on January 7, 2011. On February 10, 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 the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

JAN 30 2012

OFFICE OF PETITIONS

In re Application of :
Allan G. WEISS :
Application No. 11/765,802 : DECISION ON PETITION
Filed: June 20, 2007 : TO WITHDRAW
Attorney Docket No. 308413US17 : 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 6, 2012.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by James D. Hamilton on behalf of all the attorneys of record associated with Customer No. 22850.

The attorneys of record associated with Customer No. 22850 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address first copied below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALLAN G. WEISS
24772 RED LODGE PLACE
LAGUNA HILLS CA 92653

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ROSHARON TX 77583

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MAR 01 2011

OFFICE OF PETITIONS

In re Application of :
MGUIGNARD, et al :
Application No. 11/765,829 : DECISION ON PETITION
Filed: June 20, 2007 :
Attorney Docket No. 68.0694 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed August 30, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 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 replacement drawings, (2) the petition fee of $1620; and (3) a statement of unintentional delay.

The Examiner assigned to this application has approved the replacement drawings filed on December 30, 2010.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID G. MATTHEWS
300 SCHLUMBERGER DRIVE
SUGAR LAND, TX 77478

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.
11/765,858	06/20/2007	Hajime MATSUI	310749US2RD	8289

7590 09/23/2011

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
LE, DAVID	

ART UNIT	PAPER NUMBER
2432	

NOTIFICATION DATE	DELIVERY MODE
09/23/2011	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi James

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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NOV 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Cao et al.	:	
Application No. 11/765871	:	ON APPLICATION FOR
Filing or 371(c) Date: 06/20/2007	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
10589-101-999	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed October 20, 2011. Applicants petition for reconsideration of the patent term adjustment calculation to include an additional Applicant delay of 29 days in connection with the filing of a reply to a Notice to File Missing Parts of Nonprovisional Application, and an Office delay of 590 days pursuant to 35 U.S.C. 154(b), in connection with the Office's failure to issue the patent within 3 years of the filing date.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in failing to calculate a delay of 29 days, is **GRANTED to the EXTENT INDICATED**.

The Request for Reconsideration of Patent Term Adjustment and Application for Patent Term Adjustment Under 37 CFR 1.705(b), as it relates to an Office delay of 590 days pursuant to 35 U.S.C. 154(b) in connection with the Office's failure to issue the patent within 3 years of the filing date, is **DISMISSED as PREMATURE**.

On July 21, 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 sixty-seven (567) days.

On October 20, 2011, applicant timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected to include an additional Applicant delay of 29 days in connection with the filing of a reply to a Notice to File Missing Parts of Nonprovisional Application, mailed on July 20, 2007, three (3) months and 31 days after the Notice was mailed, on Tuesday, November 20, 2007, and an adjustment of 590 days pursuant to 35 U.S.C. 154(b).

[1] PALM records show that the Issue Fee payment was received in the Office on October 20, 2011.

A review of Office records confirms that the Office errantly neglected to assess a reduction in accordance with 37 CFR 1.704(b) in connection with the reply to the Notice to File Missing Parts of Nonprovisional Application, filed November 20, 2007.

Applicant argues that the reduction of the patent term should be 29 days in view of the court's holding in ArQule v. Kappos, 2011 WL 2469826 (D.D.C. June 22, 2011), wherein the court held that the holiday exception of 35 U.S.C. 21(b) for filing deadlines applies in determining the PTA based upon applicant delay. Here, Applicant avers that since the three month period for filing a reply to the Notice ended on a Saturday, October 20, 2007, if Applicants had filed a response on the following Monday, October 22, 2007, Applicants would not have accrued any delay under 37 CFR 1.704(b). Therefore, in view of ArQule, the period of Applicant delay began on October 23, 2007, and ended on November 20, 2007, the day the response to the Notice was filed, and is 29 days.

However, as the court in ArQule noted, "Section 21(b) allows applicants to take any action or pay any fee on the next business day if the deadline for that action falls on a weekend or a federal holiday." ArQule at 7. (Emphasis added). Here, Applicant's did not file a reply on the next business day after the Saturday on which the reply was due, but instead filed a reply on Tuesday, November 20, 2007, and Section 21(b) does not apply. Accordingly, the period of reduction began 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, October 21, 2007, and ended on the date the reply was filed, November 20, 2007, and is 31 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **536 days**, (656 days of PTO delay, reduced by 120 days (89 days + 31 days) of applicant delay), subject to any terminal disclaimer.

As to the Office's failure to issue the patent within 3 years of the filing date, knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does

not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11765871 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11765871

Application Filing Date	06/20/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	656
A Delays	656	PTO Manual Adjustment	-31
B Delays	0	Applicant Delay (APPL)	89
C Delays	0	Total PTA (days)	536

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
126	11/05/2011		P028	Adjustment of PTA Calculation by PTO		31	0
119	07/21/2011		MN/=.	Mail Notice of Allowance			0
118	07/19/2011		OAR	Office Action Review			0
117	07/19/2011		OAR	Office Action Review			0
116	07/19/2011		OAR	Office Action Review			0
115	07/19/2011		IREV	Issue Revision Completed			0
114	07/19/2011		DVER	Document Verification			0
113	07/18/2011		N/=.	Notice of Allowance Data Verification Completed			0
112	07/15/2011		EX.R	Reasons for Allowance			0
111	07/15/2011		EX.A	Examiner's Amendment Communication			0
110	07/15/2011		CNTA	Allowability Notice			0
109	07/14/2011		P574	Paralegal TD Accepted			0
98	05/26/2011		FWDX	Date Forwarded to Examiner			0
106	05/23/2011		IDSC	Information Disclosure Statement considered			0
105	05/23/2011		IDSC	Information Disclosure Statement considered			0
104	05/23/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
103	05/23/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
102	05/23/2011		RCAP	Reference capture on IDS			0
101	05/23/2011	05/23/2011	M844	Information Disclosure Statement (IDS) Filed			97
100	05/23/2011		TDP	terminal disclaimer fee paid			0
99	05/23/2011		DIST	Terminal Disclaimer Filed			0
97	05/23/2011	02/23/2011	A...	Response after Non-Final Action		89	93
96	05/23/2011		XT/G	Request for Extension of Time - Granted			0
93	11/23/2010		MCTNF	Mail Non-Final Rejection			0
92	11/22/2010		CTNF	Non-Final Rejection			0
73	09/08/2010		FWDX	Date Forwarded to Examiner			0
72	09/07/2010		ELC.	Response to Election / Restriction Filed			0
71	09/07/2010		XT/G	Request for Extension of Time - Granted			0
70	06/08/2010		MPTDI	Mail-Petition Decision - Dismissed			0
69	06/08/2010		PTDI	Petition Decision - Dismissed			0
67	06/07/2010	08/20/2008	MCTRS	Mail Restriction Requirement	656		0.5
66	06/05/2010		CTRS	Restriction/Election Requirement			0
65	05/20/2010		DOCK	Case Docketed to Examiner in GAU			0
68	10/15/2009		PET.	Petition Entered			0
64	08/20/2009		PG-ISSUE	PG-Pub Issue Notification			0
52	05/15/2009		MPTGP	Mail-Petition Decision - Granted in Part			0
51	05/15/2009		PTGP	Petition Decision - Granted in Part			0
49	05/14/2009		PG-SUBM	PG-Pub Submission			0
48	01/08/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
47	01/07/2009		C.AD	Correspondence Address Change			0
88	08/22/2008		IDSC	Information Disclosure Statement considered			0
87	08/22/2008		IDSC	Information Disclosure Statement considered			0
86	08/22/2008		IDSC	Information Disclosure Statement considered			0
85	08/22/2008		IDSC	Information Disclosure Statement considered			0
84	08/22/2008		IDSC	Information Disclosure Statement considered			0

83	08/22/2008	IDSC	Information Disclosure Statement considered	0
82	08/22/2008	IDSC	Information Disclosure Statement considered	0
81	08/22/2008	IDSC	Information Disclosure Statement considered	0
80	08/22/2008	IDSC	Information Disclosure Statement considered	0
79	08/22/2008	IDSC	Information Disclosure Statement considered	0
78	08/22/2008	IDSC	Information Disclosure Statement considered	0
77	08/22/2008	IDSC	Information Disclosure Statement considered	0
76	08/22/2008	IDSC	Information Disclosure Statement considered	0
63	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
62	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
61	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
60	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
59	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
58	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
57	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
56	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
55	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
54	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
53	08/22/2008	EIDS.	Electronic Information Disclosure Statement	0
46	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
45	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
44	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
43	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
42	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
41	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
40	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
39	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
38	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
37	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
36	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
35	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
34	08/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
50	05/13/2008	PET.	Petition Entered	0
31	03/19/2008	DOCK	Case Docketed to Examiner in GAU	0
30	03/13/2008	PG-ISSUE	PG-Pub Issue Notification	0
91	02/07/2008	IDSC	Information Disclosure Statement considered	0
90	02/07/2008	IDSC	Information Disclosure Statement considered	0
89	02/07/2008	IDSC	Information Disclosure Statement considered	0
33	02/07/2008	EIDS.	Electronic Information Disclosure Statement	0
32	02/07/2008	EIDS.	Electronic Information Disclosure Statement	0
29	02/07/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
28	02/07/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
27	02/07/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
26	01/15/2008	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
24	12/11/2007	OIPE	Application Dispatched from OIPE	0
23	11/30/2007	PGPC	Sent to Classification Contractor	0
22	11/30/2007	FLRCPT.U	Filing Receipt - Updated	0
21	11/20/2007	FLFEE	Payment of additional filing fee/Preexam	0
18	11/20/2007	SES	Small Entity Statement (37 CFR 1.27)	0
14	11/20/2007	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
13	11/20/2007	CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems	0
11	11/20/2007	MPTGR	Mail-Petition Decision - Granted	0
10	11/20/2007	PTGR	Petition Decision - Granted	0
25	09/12/2007	LET.	Miscellaneous Incoming Letter	0
9	09/12/2007	PET.	Petition Entered	0
8	07/20/2007	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	07/11/2007	L128	Cleared by L&R (LARS)	0
4	06/25/2007	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	06/25/2007	CLSS	CASE CLASSIFIED BY OIPE	0
2	06/22/2007	SCAN	IFW Scan & PACR Auto Security Review	0
20	06/20/2007	SPECIFIC	A document that contains, at least in part, a written description of an invention, and of the manne	0
1	06/20/2007	IEXX	Initial Exam Team nn	0
0.5	06/20/2007	EFILE	Filing date	0

Export to: Excel

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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

MAILED
JUN 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,890,211

Issue Date: February 15, 2011

Application No. 11/765,883

Filed: June 20, 2007

Attorney Docket No. **287S4855**

ON PETITION

This is a decision on the petition filed March 23, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The fee for the instant petition is $130.00, not $400.00. The amount of $270.00 will be refunded, in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford CT 06103

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DEC 08 2010

OFFICE OF PETITIONS

In re Application of
Thomas F. Papallo, et al.
Application No. 11/765,913
Filed: June 20, 2007
Attorney Docket No. 129704-5

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 11, 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 was midnight March 11, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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 $1,110.00 extension of time fee submitted with the petition on July 1, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Receipt is acknowledged of the Change of Correspondence Address filed with the instant petition on July 15, 2010. The Office records have been corrected accordingly.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

This application is being referred to Technology Center AU 2836 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.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
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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SCHOPPE, ZIMMERMANN , STOCKELER & ZINKLER
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston VA 20191

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of :
Beer, et al. : DECISION ON PETITION
Application No. 11/765,966 :
Filed: June 20, 2007 :
Atty. Dkt. No.: 50501.203 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2011.

The petition is **GRANTED**.

The application became abandoned November 6, 2011 for failure to timely submit a proper reply to the Notice of Allowability (Notice) mailed August 5, 2011. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed November 22, 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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CONNORS ASSOCIATES PC
13421 DANBURY LANE #135I
SEAL BEACH CA 90740

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SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Azimi, et al. :
Application No. 11/765,977 : DECISION
Filed/Deposited: 20 June, 2007 :
Attorney Docket No.(None) :

This is a decision on the petition filed on 16 August, 2011, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment," and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have addressed properly the requirements under the rule. Any deficiencies must be overcome.

BACKGROUND

The record reflects as follows:

Applicants failed to reply timely and properly to the Restriction Requirement mailed on 24 April, 2009, with reply due absent extension of time on or before 24 May, 2009.

The application went abandoned by operation of law after midnight 24 May, 2009.

The Office mailed the Notice of Abandonment on 14 December, 2009.

It appears that between 9 May, 2011, and 14 July, 2011, Petitioner filed revocation/power of attorney paper on three occasions in order to submit proper documentation.

On 16 August, 2011—nearly 27 months after abandonment and more than 20 months after Notice thereof, Petitioner filed a petition, with fee, pursuant to 37 C.F.R. §1.137(b) with a reply in the form of an Election, and an averment of unintentional delay—but no indication that Petitioner had made an independent inquiry as to the basis of the delay and no showing in support of 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

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.[2],[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. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 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).

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the requirements under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

---

[3] 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.))

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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John J. Connors
Connors & Associates pc
13421 Danbury Lane, Unit #135i
Seal Beach, CA 90740

MAILED

OCT 19 2011

OFFICE OF PETITIONS

In re Application of :
Nazli AZIMI :
Application No. 11/766,001 : ON PETITION
Filed: June 20, 2007 :
Attorney Docket No. 104523-010800 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the election/restriction requirement mailed November 16, 2009, which sets a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 17, 2009. The Notice of Abandonment was mailed on July 2, 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 election; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the election/restriction requirement of November 16, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Wilson Lee at (571) 272-1824 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1654 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

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AUG 30 2011

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John J. Connors
Connors & Associates pc
#135i
13421 Danbury Lane
Seal Beach CA 90740

In re Application of :
Nazli AZIMI : ON PETITION
Application No. 11/766,027 :
Filed: June 20, 2007 :
Atty. Docket No.: 9972

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Requirement for Restriction/Election mailed March 31, 2010 (outstanding Office action), which set a shortened period for reply of 1 month or 30 days. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned on May 1, 2010. A Notice of Abandonment was mailed October 14, 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 outstanding Office action mailed March 31, 2010, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquires regarding 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 1651 for further action on the filed Response.

for Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

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John J. Connors
Connors & Associates pc
#135i
13421 Danbury Lane
Seal Beach CA 90740

In re Application of :
Nazli AZIMI et al. : ON PETITION
Application No. 11/766,036 :
Filed: June 20, 2007 :
Atty. Docket No.: 9973

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Requirement for Restriction/Election mailed February 17, 2010 (Requirement), which set a shortened statutory period for reply of one (1) month or 30 days, whichever is longer. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned March 18, 2010. A Notice of Abandonment was mailed September 10, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Requirement mailed February 17, 2010, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the Requirement 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. 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.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR

1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office is this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 1651 for consideration of the filed Response.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110303

DATE : March 3, 2011

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7827518

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: /Jack Chiang/ **Art Unit** 2825

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Paper No.

ERIC HANSCOM
InterContinental IP
2141 Palomar Airport Road,
Suite 320
CARLSBAD CA 92011

MAILED

JAN 26 2012

OFFICE OF PETITIONS

In re Application of :
Frank Gordon : DECISION ON PETITION
Application No. 11/766,103 :
Filed: June 21, 2007 :
Attorney Docket No. Gordon, U, :
CoolMedics :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 27, 2011.

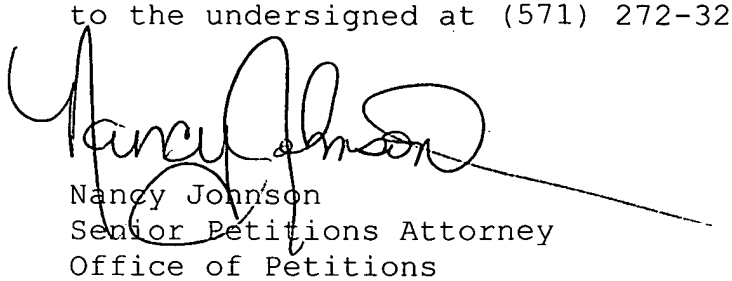
The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed April 19, 2010. This Office action set a shortened statutory period for reply of one (1) month, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective May 20, 2010. A courtesy Notice of Abandonment was mailed on October 29, 2010.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 3765 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the election submitted on petition filed December 27, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110531A

DATE : February 17, 2011

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,767,666

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:

ok to enter /RA/

/Joseph K. McKane/
Supervisory Patent Examiner, Art Unit 1626

PRD2692USNP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Keith, et al.	Confirmation No. 8848	
Serial No.:	11/766,151	Art Unit: 1614	OK TO ENTER: /RA/
Filed :	June 21, 2007	Examiner: R.L. Anderson	/RA/ 05/31/2011

For: BUTYL AND BUTYNYL BENZYL AMINE COMPOUNDS

I hereby certify that this correspondence is being transmitted via The Office electronic filing system in accordance with 37 CFR 1.6(a)(4)

February 11, 2011
(Date of Transmission)

Anna M. Pignaloni
(Name of applicant, assignee, or Registered Representative, or Transmitter)

/Anna M. Pignaloni/
(Signature)

February 11, 2011
(Date of Signature)

Commissioner of Patents
Office of Patent Publication
ATTN: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322 and § 1.323

Sir:

On behalf of the assignee of the above-identified patent, the undersigned respectfully requests that the U.S. Patent and Trademark Office issue a certificate of correction to correct errors in US patent number identified in the enclosed Form PTO/SB/44.

The page and line numbers where the errors occur in the same patent are shown in the table below:

ERROR NO.	LOCATION OF ERROR IN PATENT	ERROR BY
1	Claim 15, column 43, line 67	Office

The error by the Office, error No. 1 is supported in examiner's amendment supplied with the Notice of Allowance and Fees Due mailed on March 23, 2010.

Please charge all necessary fees to Deposit Account No. 10-0750.

Respectfully submitted,

Date: February 9, 2011

/Michael Atkins Reg. No. 35431/
Michael J. Atkins
Reg. No. 35,431

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933-7003
858-784-3103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P.O. BOX 368
RIDGEFIELD, CT 06877-0368

MAILED
DEC 17 2010
OFFICE OF PETITIONS

In re Application of :
Montse Llinas-Brunet et al :
Application No. 11/766,171 : ON PETITION
Filed: June 21, 2007 :
Attorney Docket No. 13-0119-1-C1

This is a decision on the petition, filed December 10, 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 December 7, 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLARK S. CHENEY
517 F STREET NE
WASHINGTON DC 20002

MAILED

NOV 2 2 2010

OFFICE OF PETITIONS

In re Application of :

Higgs, Eugene :
Application No. 11/766,179 : DECISION ON PETITION
Filed: June 21, 2007 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 07, 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 Clark Cheney, the sole attorney of record. Clark Cheney has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Eugene Higgs at the address indicated below. There is an outstanding Office action mailed October 26, 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: **EUGENE HIGGS**
763 NORTH 1025 EAST
LAYTON UT 84040

UNITED STATES 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.

LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert Mostyn	:	DECISION ON
Application No. 11/766,215	:	PETITION
Filed: June 21, 2007	:	
Atty Docket No. HANDS.P001	:	

This is a decision on the PETITION FOR REVIVAL OF APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 7, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed February 7, 2011. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment was filed on July 7, 2011; however, it was determined not to place the application in condition for allowance. See Advisory Action sent August 18, 2011. No proper reply having been received and no further extension of time obtained the application became abandoned effective July 8, 2011. A courtesy Notice of Abandonment was sent on September 6, 2011.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of previously submitted arguments)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 3689 has been advised of this decision. The application is, thereby, forwarded to the examiner for

consideration of the RCE (and submission) submitted on September 7, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SABIC – 08CU – ULTEM
SABIC INNOVATIVE PLASTICS – IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

MAILED

JAN 28 2011

OFFICE OF PETITIONS

In re Application of :
Kwok Pong Chan et al :
Application No. 11/766,227 : ON PETITION
Filed: June 21, 2007 :
Attorney Docket No. 207874-3

This is a decision on the petition, filed January 26, 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 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record

Telephone inquiries should be directed to Irvin Dingle at (571) 2723210.

This matter is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Leah M. Reimer
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Chang Seok Lee :
Application No. 11/766,252 :
Filed: June 21, 2007 :
Attorney Docket No. JSK-PT014 :

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 October 29, 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/
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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VOLPE AND KOEING, P.C.
United Plaza
30 South 17th Street
Philadelphia, PA 19103

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Chang Seok Lee	:	
Application No. 11/766,252	:	DECISION ON PETITION
Filed: June 21, 2007	:	TO WITHDRAW
Attorney Docket No. JSK-PT014	:	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 December 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen B. Schott 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 Chang Seok Lee at the address indicated below.

There is an outstanding Office action mailed October 25, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Chang Seok Lee**
512-13, Gamjeon-dong
Sasang-gu
Pusan
Republic of 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
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/766,252	06/21/2007	Chang Seok Lee	JSK-PT014

CONFIRMATION NO. 9036

POWER OF ATTORNEY NOTICE

3624
VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Date Mailed: 01/07/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/13/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAILED

OCT 27 2010

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of :
Knutson et al :
Application No. 11/766,387 : DECISION ON PETITION
Filed: June 21, 2007 :
Attorney Docket No. 081776-0361809 :

This is a decision on the petition under 37 CFR 1.182, filed July 30, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's credit card.

This application is being referred to Technology Center AU 3724 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/766,387	06/21/2007	3724	3636	081776-0361809	56	5

CONFIRMATION NO. 9272

CORRECTED FILING RECEIPT

909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

Date Mailed: 10/26/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David Bradley Knutson, Duluth, MN;
Mark D. Rafn, Two Harbors, MN;
Shane L. Bubacz, Duluth, MN;

Assignment For Published Patent Application

THE STANLEY WORKS, New Britain, CT

Power of Attorney: The patent practitioners associated with Customer Number 00909

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/815,832 06/23/2006
and claims benefit of 60/907,709 04/13/2007

Foreign Applications

If Required, Foreign Filing License Granted: 07/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/766,387**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HEAVY DUTY MATERIAL PROCESSING SHEARS

Preliminary Class

083

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

MAILED
AUG 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Christopher L. Gilmour	:	
Application No. 11/766,407	:	DECISION ON PETITION
Filed: June 21, 2007	:	
Attorney Docket No. CLC1728	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 14, 2011, as required by the Notice of Allowance and Fee(s) Due mailed April 14, 2011. Accordingly, the date of abandonment of this application is July 15, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Additionally, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAR 05 2012
OFFICE OF PETITIONS

In re Application :
O'Connor, et al. :
Application No. 11/766,608 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: June 21, 2007 :
Dkt. No.: 05311-0046001 / BWH 1211 :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed January 27, 2012.

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicants submit that the correct patent term adjustment to be indicated on the patent is 151 days, not 149 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed October 28, 2011. Applicants contest the reduction of 59 days in connection with the reply filed April 12, 2011. Applicants assert that the correct reduction in this regard is 57 days.

The arguments presented have been carefully reviewed and found convincing. Accordingly, at the time of allowance, the application was entitled to an overall patent term adjustment of 151 days, as argued.

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

An Adjusted PAIR Calculation is enclosed.

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

Enclosure

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11766608 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11766608

Application Filing Date	06/21/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	386
A Delays	386	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	237
C Delays	0	Total PTA (days)	151

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
100	02/12/2012		P028	Adjustment of PTA Calculation by PTO		57	0
99	02/12/2012		P028	Adjustment of PTA Calculation by PTO	59		0
89	10/28/2011		MN/=.	Mail Notice of Allowance			0
88	10/26/2011		OAR	Office Action Review			0
87	10/26/2011		IREV	Issue Revision Completed			0
86	10/26/2011		DVER	Document Verification			0
85	10/26/2011		N/=.	Notice of Allowance Data Verification Completed			0
84	10/22/2011		CNTA	Allowability Notice			0
83	10/07/2011		LET.	Miscellaneous Incoming Letter			0
82	09/16/2011		FWDX	Date Forwarded to Examiner			0
80	09/09/2011		MEXIA	Mail Applicant Initiated Interview Summary			0
79	09/02/2011		OAR	Office Action Review			0
81	08/31/2011		A...	Response after Non-Final Action			0
78	08/31/2011		EXIA	Interview Summary- Applicant Initiated			0
77	06/07/2011		ELC_RVW	Electronic Review			0
76	06/07/2011		EML_NTF	Email Notification			0
75	06/07/2011		MCTNF	Mail Non-Final Rejection			0
74	06/02/2011		OAR	Office Action Review			0
73	06/01/2011		CTNF	Non-Final Rejection			0
72	04/14/2011		FWDX	Date Forwarded to Examiner			0
69	04/14/2011		ABN9	Disposal for a RCE / CPA / R129			0
71	04/12/2011		AMPR	RCE- AF Processed			0
70	04/12/2011	02/12/2011	RCEX	Request for Continued Examination (RCE)		59	57
68	04/12/2011		XT/G	Request for Extension of Time - Granted			0
67	04/12/2011		BRCE	Workflow - Request for RCE - Begin			0
66	03/30/2011		EML_NTR	Email Notification			0
65	03/30/2011		MCTAV	Mail Advisory Action (PTOL - 303)			0
64	03/26/2011		OAR	Office Action Review			0
63	03/25/2011		CTAV	Advisory Action (PTOL-303)			0
62	03/16/2011		FWDX	Date Forwarded to Examiner			0
61	03/15/2011		A.NE	Amendment after Final Rejection			0
60	03/15/2011		XT/G	Request for Extension of Time - Granted			0
59	11/12/2010		ELC_RVW	Electronic Review			0
58	11/12/2010		EML_NTF	Email Notification			0
57	11/12/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
56	11/08/2010		CTFR	Final Rejection			0
55	09/28/2010		FWDX	Date Forwarded to Examiner			0
54	09/24/2010	07/08/2010	A...	Response after Non-Final Action		78	47
53	09/24/2010		XT/G	Request for Extension of Time - Granted			0
52	09/13/2010		EML_NTR	Email Notification			0
51	09/13/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
50	09/08/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
49	04/08/2010		ELC_RVW	Electronic Review			0
48	04/08/2010		EML_NTF	Email Notification			0
47	04/08/2010		MCTNF	Mail Non-Final Rejection			0
46	04/06/2010		CTNF	Non-Final Rejection			0
41	02/19/2010		FWDX	Date Forwarded to Examiner			0
40	01/21/2010	10/13/2009	ELC.	Response to Election / Restriction Filed		100	35
39	01/21/2010		XT/G	Request for Extension of Time - Granted			0
38	12/16/2009		EML_NTR	Email Notification			0
37	12/16/2009		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
36	10/16/2009		FWDX	Date Forwarded to Examiner			0
35.1	10/13/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
35	10/13/2009		ELC.	Response to Election / Restriction Filed			0
34	09/11/2009		ELC_RVW	Electronic Review			0
33	09/11/2009		EML_NTF	Email Notification			0
32	09/11/2009	08/21/2008	MCTRS	Mail Restriction Requirement	386		0.5
31	09/09/2009		CTRS	Restriction/Election Requirement			0
30	03/04/2009		DOCK	Case Docketed to Examiner in GAU			0
29	02/27/2009		EML_NTR	Email Notification			0
28	02/26/2009		PG-ISSUE	PG-Pub Issue Notification			0
27	02/25/2009		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
20	12/11/2008		EML_NTR	Email Notification			0
19	12/11/2008		PA..	Change in Power of Attorney (May Include Associate POA)			0

25	12/01/2008	M844	Information Disclosure Statement (IDS) Filed	0
18	12/01/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
17	11/25/2008	OIPE	Application Dispatched from OIPE	0
16	11/20/2008	EML_NTR	Email Notification	0
14	11/20/2008	FLRCPT.U	Filing Receipt - Updated	0
15	11/19/2008	PGPC	Sent to Classification Contractor	0
8	11/10/2008	CRFE	CRF Is Good Technically / Entered into Database	0
24	10/09/2008	A.PE	Preliminary Amendment	0
13	10/09/2008	ADDFLFEE	Additional Application Filing Fees	0
12	10/09/2008	SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
11	10/09/2008	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
10	10/09/2008	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
9	10/09/2008	CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems	0
7	07/09/2008	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
6	07/09/2008	FLRCPT.O	Filing Receipt	0
44	06/09/2008	IDSC	Information Disclosure Statement considered	0
22	06/09/2008	RCAP	Reference capture on IDS	0
21	06/09/2008	M844	Information Disclosure Statement (IDS) Filed	0
5	06/09/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
4	06/27/2007	L194	Cleared by OIPE CSR	0
3	06/27/2007	CLSS	CASE CLASSIFIED BY OIPE	0
2	06/26/2007	SCAN	IFW Scan & PACR Auto Security Review	0
1	06/21/2007	IEXX	Initial Exam Team nn	0
0.5	06/21/2007	EFILE	Filing date	0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110125

DATE : January 25, 2011

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 7,768,876

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

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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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED
JAN 04 2011
OFFICE OF PETITIONS

In re Application of :
JEFFREY et al. :
Application No. 11/766,662 : ON PETITION
Filed: 06/21/2007 :
Attorney Docket No. 17601.36A.1.1.1 :

This is a decision on the petition under 37 CFR 1.182, filed April 7, 2010, to change the inventor's name from "Louise Balfe" to "Louise Corcoran."

The petition is **granted**.

The Office has changed the inventor's name in the USPTO computer records and printed a new bibliographic data sheet, which will be scanned into the Image File Wrapper. A corrected filing receipt, reflecting the requested change, accompanies this decision.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera 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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/766,662	06/21/2007	3763	2630	17601.36A.1.1.1	40	4

CONFIRMATION NO. 9792

CORRECTED FILING RECEIPT

57360
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

Date Mailed: 01/03/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Andrew Jeffrey, Tuebingen, GERMANY;
Louise Corcoran, Stuttgart, GERMANY;
Lorcan Coffey, Tuebingen, GERMANY;
Arik Zucker, Zuerich, SWITZERLAND;
Kay Unzicker, Jestetten, GERMANY;
Zdravkica Dzakula, Buelach, SWITZERLAND;
Ib Joergensen, Haigerloch, GERMANY;
Randolf von Oepen, Los Altos Hills, CA;

Assignment For Published Patent Application

Abbott Laboratories Vascular Enterprises Limited, Dublin, IRELAND

Power of Attorney: The patent practitioners associated with Customer Number 057360

Domestic Priority data as claimed by applicant

This application is a CIP of 10/296,252 11/21/2002 ABN
which is a 371 of PCT/EP01/05893 05/22/2001
This application 11/766,662
is a CIP of 11/335,931 01/20/2006
which claims benefit of 60/646,118 01/21/2005

Foreign Applications

GERMANY 200092049 05/22/2000

If Required, Foreign Filing License Granted: 07/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/766,662**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CATHETER HAVING A SOFT DISTAL TIP

Preliminary Class

604

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,715	06/21/2007	Jeffrey C. Robison	47718.0900	9893

7590 02/14/2011

SNELL & WILMER L.L.P.
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-2202

EXAMINER	
BASTIANELLI, JOHN	

ART UNIT	PAPER NUMBER
3753	

MAIL DATE	DELIVERY MODE
02/14/2011	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

SNELL & WILMER LLP
Attention: BRADFORD DONOVAN
400 East Van Buren
Phoenix, AZ 85004-2204

In re Application of: Robison, Jeff Application No. 11/766,715 Filed: June 21, 2007 For: DISC SHAPED PLUG HEAD	**DECISION ON PETITION UNDER 37 C.F.R. ∋ 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. ∋ 1.84(a)(2), filed June 21, 2007, requesting acceptance of color drawings. The petition requests that some of the drawings, which are in color, 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), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, 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 patent or application file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed without an amendment to add the required specific language as stated above in the brief description of drawings.

Applicant's submission does not meet all the criteria set out above. Accordingly, the petition is **DENIED**.

/Stephen M. Hepperle/
Supervisory Patent Examiner
Art Unit 3753

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120315

DATE : December 22, 2011

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 8031204

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:

/XIAO WU/
Supervisory Patent Examiner.Art Unit 2628

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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COATS & BENNETT/QIMONDA
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Arthur William JUENGER :
Application No. 11/766,819 : DECISION ON PETITION
Filed: June 22, 2007 : TO WITHDRAW
Attorney Docket No. 6343-060 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of the assignee of the entire interest under 37 C.F.R 3.71.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of	:	
Shu-Hung Lin	:	
Application No. 11/766,835	:	ON PETITION
Filed: June 22, 2007	:	
Attorney Docket No. 8621-90473	:	

This is a decision on the petition under 37 CFR 1.182, filed September 1, 2010, to change the name of one of the inventors.

The petition is **GRANTED**.

The name of the inventor has been changed from **Vincent Lin** to **Shu-Hung Lin**.

The application file is being referred to the Office of Patent Publications further processing.

Telephone inquiries regarding this decision may be directed to Kimberly Inabinet (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/766,835	06/22/2007	2875	725	8621-90473	14	3

CONFIRMATION NO. 1137

22242
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

CORRECTED FILING RECEIPT

OC000000044025655

Date Mailed: 10/15/2010

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)

Shu-Hung Lin, Xinzhu City, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 22242

Domestic Priority data as claimed by applicant

Foreign Applications
CHINA 200720139542.2 02/14/2007

If Required, Foreign Filing License Granted: 07/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/766,835**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

LUMINOUS ASSEMBLY HAVING A FIBER-FORMED SHAPED PART

Preliminary Class

362

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 5, 2011

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No. 11/766875 patent No.:7799119

C of C mailroom date:--03-24--11

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes do not apply.

☐ **Denied** — State the reasons for denial below.

Comments: OK to enter

DUANE SMITH

SUPERVISORY PATENT EXAMINER

SPE

1776

Art Unit

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APR 02 2012
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American Air Liquide, Inc.
Intellectual Property Dept.
2700 Post Oak Boulevard
Suite 1800
Houston TX 77056

In re Application of:
FAUDOU, Jean-Yves, et al.
U.S. Application No.: 11/766,924
Filing Date: June 22, 2007
Attorney's Docket No.: Serie 6677
For: METHOD FOR CONTROLLED FILLING OF PRESSURIZED GAS TANKS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.55(c) AND 1.78(a)(3)

This decision is issued in response to the "Renewed Petition Pursuant To 37 C.F.R. § 1.55(c) and 1.78(a)(3)" filed on 09 February 2012. Applicants have previously paid the required petition fee.

BACKGROUND

The procedural background for the present application was set forth in the decisions mailed herein on 17 October 2008 and 23 February 2009.

The decision mailed on 17 October 2008 dismissed applicants' petition under 37 CFR 1.182 to convert the present application to a national stage application filed under 35 U.S.C. 371. The decision stated that the application would continue to be processed as a filing under 35 U.S.C. 111(a).

The decision mailed on 23 February 2009 dismissed applicants' original petition under 37 CFR 1.55(c) and 1.78(a)(3), finding that applicants had failed to satisfy all the requirements of a grantable petition.

On 09 February 2012, applicants filed the "Renewed Petition Pursuant To 37 C.F.R. § 1.55(c) and 1.78(a)(3)" considered herein.

DISCUSSION

1. Renewed Petition Under 37 CFR 1.78(a)(3)

Applicants' renewed petition under 37 CFR 1.78(a)(3) again seeks to add to the present application a benefit claim directed to international application PCT/FR2005/050947. As stated

in the decision mailed on 23 February 2009, a grantable petition under 37 CFR 1.78(a)(3) must include the following:

(1) the reference to the prior-filed application, as required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t);
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

The present renewed petition does not comply with items (1) and (3) above.

With respect to the required reference to the international application, as discussed in the decision dismissing applicants' original petition under 37 CFR 1.78(a)(3), any viable benefit claim directed to the prior-filed international application must be a domestic benefit claim under 35 U.S.C. 120 and 35 U.S.C. 365(c). In addition, pursuant to 37 CFR 1.78(a)(2)(i) any non-provisional application claiming the benefit under 35 U.S.C. 120 of a prior-filed international application must contain or be amended to contain a reference to the prior-filed international application identifying it by "international application number and international filing date and indicating the relationship of the applications." As set forth in MPEP section 201.11(III)(A), the relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of the prior-filed international application.

The present renewed petition is accompanied by an application data sheet (ADS) containing a reference to the international application. However, the ADS incorrectly identifies the present application as "a 371" of international application PCT/FR2005/050947. In the decision issued herein on 17 October 2008, it was expressly stated that the present application is properly treated as a U.S. application filed under 35 U.S.C. 111(a) and not as a national stage application filed under 35 U.S.C. 371. Thus, the reference in the ADS identifying the present application as the national stage under 35 U.S.C. 371 of the international application is improper.

Because the ADS filed with the present petition does not properly identify the relationship between the present application and the prior-filed international application (i.e., continuation, divisional, or continuation-in-part), the reference is unacceptable. Item (1) of a grantable petition is therefore not satisfied.

With respect to item (3), the present renewed petition includes a statement that the entire delay between the date the claim was due and the filing of the present was unintentional. However, the renewed petition was filed nearly three years after the 23 February 2009 decision dismissing applicants' original petition to add the desired priority claims. Under these circumstances, applicants are required to provide an explanation as to the extensive delay in filing the renewed petition. Until applicants provide an acceptable explanation for such delay, item (3) of a grantable petition is not considered satisfied.

2. **Renewed Petition Under 37 CFR 1.55(c)**

The renewed petition under 37 CFR 1.55(c) again seeks to add a foreign priority claim directed to French application FR 0453155, filed on 22 December 2004. However, as discussed in the previous decision, the filing date of the present application is more than twelve months after the filing date of the French application. Accordingly, unless and until a benefit claim directed to the intermediate international application is effectively added to the present application, a foreign priority claim directed to FR 0453155 is not appropriately added to the present application. See MPEP section 201.13(II)(D): "The United States nonprovisional application, or its earliest parent nonprovisional application under 35 U.S.C. 120, must have been filed within 12 months of the earliest foreign filing."

In addition, as discussed above with respect to the petition under 37 CFR 1.78(a)(3), an explanation is required regarding the nearly three year delay in filing the renewed petition under 37 CFR 1.55(c).

Based on the above, applicants have failed to satisfy the requirements for a grantable petition under 357 CFR 1.55(c) for acceptance of an unintentionally delayed foreign benefit claim.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.55(c) and 1.78(a)(3) is **DISMISSED** without prejudice.

Any subsequent renewed petition under 37 CFR 1.78(a)(3) and 1.55(c) must include a substitute amendment (or application data sheet) containing a reference to the prior-filed international application that is acceptable under 37 CFR 1.78(a)(2) as well as the required statement of unintentional delay, including an explanation regarding the extensive delay between the decision dismissing applicants' original petition under 37 CFR 1.78(a)(3) and 1.55(c) and the filing of the renewed petition.

No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
(571) 272-3296

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July 18, 2011

John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/766,948

Filed: June 22, 2007
For: METHOD AND SYSTEMS FOR PROVIDING CONCURRENCY CONTROL FOR ADDRESSABLE ENTITIES

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 14, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 14, 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 (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,948	06/22/2007	Robert P. Morris	1466/US	1354

49277 7590 07/20/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
VU, TUAN A	

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
07/20/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,948	06/22/2007	Robert P. Morris	1466/US	1354

49277 7590 07/20/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
VU, TUAN A	

ART UNIT	PAPER NUMBER
2193	

DATE MAILED: 07/20/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,948	06/22/2007	Robert P. Morris	1466/US	1354

49277 7590 12/13/2011

SCENERA RESEARCH, LLC
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EXAMINER	
VU, TUAN A	

ART UNIT	PAPER NUMBER
2193	

DATE MAILED: 12/13/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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John A. Demos
5400 Trinity Road, Ste. 303
RALEIGH, NC 27607

December 12, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/766,948

Filed: June 22, 2007
For: METHOD AND SYSTEMS FOR PROVIDING CONCURRENCY CONTROL FOR ADDRESSABLE ENTITIES

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 24, 2011.

The petition is **GRANTED and the application identified above is suspended for three (3) months from the mailing date of this letter**.

Pursuant to applicant's request filed on April 14, 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 (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,948	06/22/2007	Robert P. Morris	I466/US	1354

49277 7590 03/22/2012

SCENERA RESEARCH, LLC
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Raleigh, NC 27607

EXAMINER	
VU, TUAN A	

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
03/22/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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John Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/766,948
Filed: June 22, 2007
For: METHOD AND SYSTEMS FOR PROVIDING CONCURRENCY CONTROL FOR ADDRESSABLE ENTITIES

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

July 18, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/766,960

Filed: June 22, 2007
For: METHOD AND SYSTEMS FOR PROVIDING TRANSACTION SUPPORT FOR EXECUTABLE PROGRAM COMPONENTS

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 14, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 14, 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 (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,960	06/22/2007	Robert P. Morris	1486/US	1374

49277 7590 07/20/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
NGUYEN, PHILLIP H	

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
07/20/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,960	06/22/2007	Robert P. Morris	1486/US	1374

49277 7590 07/20/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER	
NGUYEN, PHILLIP H	

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 07/20/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,960	06/22/2007	Robert P. Morris	1486/US	1374

49277 7590 12/14/2011

SCENERA RESEARCH, LLC
5400 Trinity Road
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Raleigh, NC 27607

EXAMINER	
NGUYEN, PHILLIP H	

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 12/14/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

December 12, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/766,960

Filed: June 22, 2007
For: METHOD AND SYSTEMS FOR PROVIDING TRANSACTION SUPPORT FOR EXECUTABLE PROGRAM COMPONENTS

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 24, 2011.

The petition is **GRANTED and the application identified above is suspended for three (3) months from the mailing date of this letter**.

Pursuant to applicant's request filed on April 14, 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 (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
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Computer Architecture and Software

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/766,960	06/22/2007	Robert P. Morris	I486/US	1374

49277 7590 03/22/2012

SCENERA RESEARCH, LLC
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EXAMINER	
NGUYEN, PHILLIP H	

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
03/22/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Alexandria, VA 22313-1450
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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.: 11/766,960
Filed: June 22, 2007
For: METHOD AND SYSTEMS FOR PROVIDING TRANSACTION SUPPORT FOR EXECUTABLE PROGRAM COMPONENTS

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P.
98 SAN JACINTO BOULEVARD
SUITE 1100
AUSTIN TX 78701-4255

MAILED

OCT 27 2011

OFFICE OF PETITIONS

In re Application of :
David Ralph et al. :
Application No. 11/767,009 : DECISION ON PETITION
Filed: June 22, 2007 :
Attorney Docket No. **PROH:007US/10707324** :

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 application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 24, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 25, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $930; and (3) a proper statement of unintentional delay.

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.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1637 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

JoAnne Burke
Petitions Examiner
Office of Petitions

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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.
11/767,030	06/22/2007	Kenji MORIHARA	ISO-5863	1502

7590 10/08/2010
MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER
AN, MENG AI T

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
10/08/2010	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: 12/12/2010 NFARMER
[illegible]
02 FC:1111 -[illegible] OP

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 9/16/10

TO SPE OF : ART UNIT: 2838 Attn: VU BAO Q

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/767082 Patent No.: 7638993

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

PLEASE CHECK THE DRAWING

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Monica Lewis/ — **SPE**

2838 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

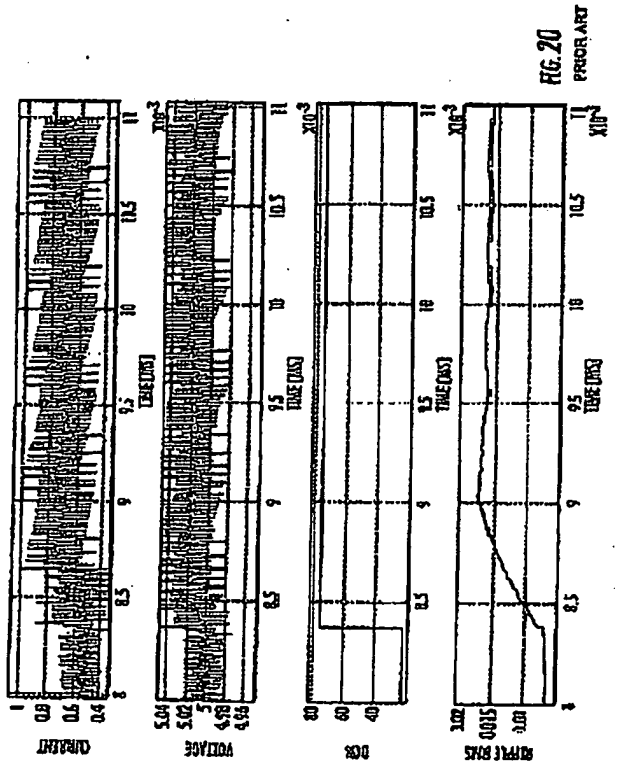
APPLICATION NO.:		11/767082
PATENT NO.	:	7,638,993
DATED	:	DECEMBER 29,2010
INVENTOR(S)	:	VALENTINO ET AL.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below

In the Drawings

Delete: FIG 20

Insert: New FIG 20



MAILING ADDRESS OF SENDER:
Christopher F. Regan
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 S. Orange Avenue - Suite 1401
P.O. Box 3791
Orlando, FL 32802-3791
PHONE : (407) 841-2330

PATENT NO. 7,638,993 B2

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

APPLICATION NO.:		11/767082
PATENT NO.	:	7,638,993 B2
DATED	:	DECEMBER 29,2010
INVENTOR(S)	:	VALENTINO ET AL.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below

IN THE SPECIFICTIONS:

Column 6, Line 57 Delete: "Vret"
Insert: -- Vref--

IN THE CLAIMS:

Column 10, Line 1, CLAIM 10 Delete: "an"
Insert: --and--

MAILING ADDRESS OF SENDER:
Christopher F. Regan
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 S. Orange Avenue - Suite 1401
P.O. Box 3791
Orlando, FL 32802-3791
PHONE : (407) 841-2330

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100924

DATE : October 8, 2010

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction on Patent No.: 7638993

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: Lewis Monica **Art Unit** 2838