UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCCARTER & ENGLISH, LLP BOSTON
265 FRANKLIN STREET
BOSTON MA 02110

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re
Meesapyodsuk, et al.
Application No. 11/767,115
Filed: June 22, 2007
Patent No. 7,923,598
Issued: April 12, 2011

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 9, 2011.

The fee deficiency submission under 37 CFR 1.28 of $1000 for the issue fee and two month extension of time 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 3rd request

Paper No.: _____

DATE : 02/01/12

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/767115 Patent No.: 7923598

CofC mailroom date: 06/29/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Should the changes be made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

☐ **Approved** **All** changes apply.

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

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

Comments: _____

_____

_____

_____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120301-B

DATE : March 01, 2012

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 7923598

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/ANNE GRUNBERG/
Supervisory Patent Examiner.Art Unit 1638

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

11/26/11

Patent No. : 79235980
Inventor(s) : Meesapyodsuk et al
Issued : 04/12/11
For : FATTY ACID HYDROXYLASES AND USER 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 1.322 and 1.323.

Granting of a petition under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error in the Assignee, when the correct name of the assignee was not provided in accordance with either section 3.81(a) or (b) (either no name or an incorrect name was provided in item 3 of the Issue Fee Transmittal, when the assignment had been recorded or submitted for recordation at the time the issue fee was paid, including after issuance of the patent.

A petition to correct the Assignee, under 37 CFR 1.183 should include:

(1) the petition fee set forth in 37 CFR 1.117(h) (currently $130);
(2) the correct name and address of the assignee; and
(3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

If, the petition under 37 CFR 1.183, is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), due to the mistake in not complying with CFR 3.81.

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

RoChaun Hardwick
Decisions & Certificates
of Correction Branch
(571) 272-0470

MRNRRDH HULSYI, ESQ
MCCARTER & ENGLISH, LLP
265 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110
RMH

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application
Mark Kent et al.
Application No. 11/767,123
Filed: June 22, 2007
Attorney Docket No. 18184US02

: DECISION 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 19, 2010. Applicant requests that the determination of patent term adjustment be corrected from 598 to 934 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Kent et al. :
Application No. 11/767,158 :
Filed: June 22, 2007 :
Attorney Docket No. 18185US02 :
Title: METHOD AND SYSTEM FOR AN :
EFFICIENT CHANNEL QUANTIZATION :
METHOD FOR MIMO PRE-CODING :
SYSTEMS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed July 27, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred forty-six (746) days, not six hundred thirteen (613) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

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

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

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

---

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

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

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

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

Anthony Knight
Director
Office of Petitions

---

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APEX JURIS, PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE WA 98125

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Marty WILLIAMS :
Application No. 11/767,166 : DECISION ON PETITION
Filed: June 22, 2007 :
Attorney Docket No. 10.18.13.USP :

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 **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 Notice to File Missing Parts of Nonprovisional Application (Notice), mailed July 18, 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 September 19, 2007.

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

Petitioner did not submit all of the required fees as indicated by the Office action of July 18, 2007. The statutory basic filing fee of $300.00 and the late surcharge fee of $130.00 were not submitted as required with the petition. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

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
www.uspto.gov

APEX JURIS, PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE WA 98125

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Marty WILLIAMS	:	
Application No. 11/767,166	:	DECISION ON PETITION
Filed: June 22, 2007	:	
Attorney Docket No. 10.18.13.USP	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 07, 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 Missing Parts of Nonprovisional Application (Notice), mailed July 18, 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 September 19, 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, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of July 18, 2007 is accepted as having been unintentionally delayed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

- 1 OCT 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

In re Application of AN et al. Application No.: 11/767,193 Filing Date: 22 June 2007 Attorney's Docket No.: 20010-31USA For: REGULATOR FOR FLOWERING TIME, TRANSGENIC PLANT TRANSFORMED WITH THE SAME, AND METHOD FOR REGULATING FLOWERING TIME	:	DECISION

This is a decision on the "Petition under 37 CFR 1.78(a)(3)" and treated under 37 CFR 1.78(a)(6), filed on 12 July 2010 to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119 for the benefit of priority to the prior-filed application set forth in the amendment filed with the petition.

The petition is DISMISSED.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) 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)(ii) 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 petition does not satisfy item (1) above. The reference set forth in the amendment to the first sentence of the specification is not acceptable as drafted. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional or international application must contain or be amended to contain a reference to each such prior-filed application indicating the relationship of the applications. Likewise, 37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to

contain a reference to each such prior-filed application.

Here, Applicant amended the first line of the specification as follows: "The present application is a national stage of PCT Application No. PCT/KR2005/004461 filed on December 22, 2005, which claims the benefit of priority to U.S. provisional Patent Application No. 60/638,460 filed on December 22, 2004@.

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

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

In addition, section 1893.03(a) of the MPEP states the following:

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

Applicant's 22 June 2007 filing included a Transmittal Letter To the United States Designated/Elected Office (DO/EO/US) Concerning a Filing under 35 U.S.C. 371; however, Applicant chose "Utility" for Application Type instead of "U.S. national stage under 35 U.S.C. 371" in the EFS-Web menu as shown on the Electronic Acknowledgement Receipt. The inclusion of these conflicting indications of applicant's intent in the materials filed on 22 June 2007 constitutes "conflicting instructions" which, pursuant to the MPEP, requires that the application be treated under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 22 June 2007 will be treated as a filing under 35 U.S.C. 111(a).

Because application no. 11/767,193 is not a national stage application but a utility application under 35 U.S.C. 111(a); the amendment improperly identifies the relationship as application 11/767,193 is not an application filed under 35 U.S.C. 371. Moreover, the provisional application was not filed within 12 months of the present application. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2) and (a)(5) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either a supplemental Application Data Sheet (37 CFR 1.76(a)(5)) or a proper

amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office";

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

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

By fax: 571-273-0459
ATTN: Office of PCT Legal Administration

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at 571-272-3286.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 26 2011

PCT LEGAL ADMINISTRATION

JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

In re Application of
AN et al.
Application No.: 11/767,193
Filing Date: 22 June 2007
Attorney's Docket No.: 20010-31USA
For: REGULATOR FOR FLOWERING TIME, TRANSGENIC PLANT TRANSFORMED WITH THE SAME, AND METHOD FOR REGULATING: FLOWERING TIME

DECISION

This is a decision on the Renewed Petition under 37 CFR 1.78(a)(3) - Petition to Accept an Unintentionally Delayed Benefit Claim" and treated under 37 CFR 1.78(a)(6), filed on 25 October 2010 to accept an unintentionally delayed claim under 35 U.S.C. 120 and 119 for the benefit of priority to the prior-filed application set forth in the amendment filed with the petition.

At the time of filing the present application, applicant did not make a proper claim for domestic priority. Thus, the filing of a petition under 37 CFR 1.78(a)(3) is necessary. Such petition is hereby **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)(ii) 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 petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed international application and provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an acceptable statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this instant 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 application, all other requirements under 35 U.S.C. §§ 119(e), 120, and 365(c) and 37 CFR 1.78 must be met. Similarly, the fact that any Filing Receipt includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. 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 1638 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application.

/Bryan Lin/
Bryan Lin
Legal Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : June 1,2011

In re Application of :

Hsueh-I Huang

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11767205

Filed : 22-Jun-2007

Attorney Docket No : JCLA23687

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 1,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2822 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11767205
Filing Date	22-Jun-2007
First Named Inventor	Hsueh-I Huang
Art Unit	2822
Examiner Name	TELLY GREEN
Attorney Docket Number	JCLA23687
Title	METHOD OF FABRICATING LOW ON-RESISTANCE LATERAL DOUBLE-DIFFUSED MOS DEVICE

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

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

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

Petition Fee

- ☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ☐ Applicant(s) status remains as SMALL ENTITY.
- ☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

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

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/JIAWEI HUANG/
Name	JIAWEI HUANG
Registration Number	43330

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,795,413	:	
Application No. 11/767,326	:	
Filed: June 22, 2007	:	ON PETITION
Issued: September 14, 2010	:	
Attorney Docket No. 02-1240-F1	:	

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

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Naoyuki Kobayashi, et al.	:	
Application No. 11/767,425	:	DECISION GRANTING PETITION
Filed: June 22, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 126088.05	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed November 12, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/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.*

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	11767425
Filing Date	22-Jun-2007
First Named Inventor	Naoyuki Kobayashi
Art Unit	2882
Examiner Name	HUNG NGUYEN
Attorney Docket Number	126088.05
Title	EXPOSURE APPARATUS AND METHOD FOR PRODUCING DEVICE

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

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

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : August 8,2011

In re Application of :

Naoyuki Kobayashi

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11767425

Filed : 22-Jun-2007

Attorney Docket No : 126088.05

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed August 8,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2882 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : December 27, 2011

In re Application of :

Naoyuki Kobayashi

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11767425

Filed : 22-Jun-2007

Attorney Docket No : 126088.05

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

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2882 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11767425
Filing Date	22-Jun-2007
First Named Inventor	Naoyuki Kobayashi
Art Unit	2882
Examiner Name	HUNG NGUYEN
Attorney Docket Number	126088.05
Title	EXPOSURE APPARATUS AND METHOD FOR PRODUCING DEVICE

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

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

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FEB 09 2012
OFFICE OF PETITIONS

JILL L. ROBINSON
95 SHUEY DRIVE
MORAGA, CA 94556

In re Application of	:	
Ned S. Rasor, et al.	:	
Application No. 11/767,433	:	ON PETITION
Filed: June 22, 2007	:	
Attorney Docket No. RAZO 1010 PA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2012, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

The instant petition lacks item 1. 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. Applicant should note that, while the publication fee remained $300, effective September 26, 2011 the issue fee was increased to $870 for a small entity. Since the fees are being paid after September 26, 2011, applicant must pay the new amount. Petitioner submitted $755 for the issue fee and $300 for the publication fee. Accordingly, the petition cannot be granted until the $115 balance of the issue fee is paid.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 14 2012
OFFICE OF PETITIONS

JILL L. ROBINSON
95 SHUEY DRIVE
MORAGA, CA 94556

In re Application of
Ned S. Rasor, et al.
Application No. 11/767,433
Filed: June 22, 2007
Attorney Docket No.: RAZO 1010 PA

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 27, 2012.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 8, 2011. A Notice of Abandonment was mailed on December 22, 2011. On January 27, 2012, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed February 9, 2012. In response, on February 27, 2012, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $870 issue fee and $300 publication fee; (2) the petition fee of $930; and (3) an adequate statement of unintentional delay.

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

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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.
11/767,460	06/22/2007	Anthony J. Fontana JR.	46263.0016	1387

57600 7590 08/25/2010
HOLLAND & HART
222 South Main Street, Suite 2200
P.O. Box 11583
Salt Lake City, UT 84110

EXAMINER
ALLEN, ANDRE J

ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
08/25/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. FONTANA ET AL.	:	
Appl No.: 11/767,460	:	**DECISION ON PETITION**
Filed: June 22, 2007	:	*37 CFR 1.48*
For: Apparatus, method, and system for measuring water activity and weight	:	

This is a decision on the petition filed 28 July 2009 to correct inventorship under 37 CFR 1.48. The petition is denied.

The request to correct the inventorship in this nonprovisional application under 37 CFR 1.48 requesting addition of an inventor(s) is deficient.because: there is not a complete oath/declaration submitted by each inventor.

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. See MPEP 201.03 II(B).

Lisa Caputo
Supervisory Patent Examiner
Art Unit 2855
Technology Center 2800

HOLLAND & HART
222 South Main Street, Suite 2200
P.O. Box 11583
Salt Lake City, UT 84110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN M. COOLE
11394 SW 65TH STREET
MIAMI, FL 33173

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
John Milton Coole	:	
Application No. 11/767,512	:	DECISION ON PETITION
Filed: June 24, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 6, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from inventor John Milton Coole stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3634 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20110217

DATE : Feburary 17, 2011

TO SPE OF : ART UNIT 3753 - SPE Stephen M. Hepperle.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/767,518 Patent No.: 7,845,618 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 the U.S. Patent Document reference "5,944,857 A 8/1999 Edwards et al." be added to References Cited section as requested by applicant? *See COCIN dated 2-2-2011*

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: U.S. Patent Document reference "5,944,857 A 8/1999 Edwards et al." was considered by the examiner and should be added to References Cited section as requested by applicant.

SPE /Stephen M. Hepperle/ **Art Unit** 3753

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STRADLEY RONON STEVENS & YOUNG, LLP
30 VALLEY STREAM PARKWAY
GREAT VALLEY CORPORATE CENTER
MALVERN PA 19355-1481

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Sheng ZHANG	:	DECISION REFUSING STATUS
Application No. 11/767,565	:	UNDER 37 CFR 1.47(a) & 1.48(a)
Filed: June 25, 2007	:	
Attorney Docket No. 184714-3005	:	

This is a decision on the petition, filed on May 24, 2011, "Request Under 37 CFR § 1.48(a) to Correct Inventorship and Request under 37 CFR 1.47(a) to waive signature. The petitions will be considered as a Petition Under 37 CFR § 1.183 to Waive Requirements of 37 CFR § 1.64." The processing fees of $130.00 and $400.00 under 37 CFR § 1.17(i) and 37 CFR § 1.17(f) respectively has been charged to Deposit Account.

The petition under 37 CFR § 1.48(a) is **DISMISSED**.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The request under 37 CFR 1.48(a) lacks compliance with item (5), a statement under 37 CFR 3.73(b) was not provided with petition.

The petition under 37 CFR § 1.183 is **DISMISSED**.

37 CFR § 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. In order for grant of a petition under 37 CFR § 1.183, petitioners must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255,256 (Comm'r Pat. 1985). **Petitioner has not shown that either condition exists in this case.** But in any event, the USPTO will not normally consider an extraordinary remedy, when the patent statutes and rules of practice already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664(Comm'r Pat. 1982). **Here correction of Inventorship may be obtained by the filing of a 37 CFRR 3.73(b) statement in a renewed petition.**

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

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

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

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

/Thurman K. Page/
Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STRADLEY RONON STEVENS & YOUNG, LLP
30 VALLEY STREAM PARKWAY
GREAT VALLEY CORPORATE CENTER
MALVERN PA 19355-1481

MAILED
NOV 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Sheng ZHANG et al.	:	DECISION REFUSING STATUS
Application No. 11/767,565	:	UNDER 37 CFR 1.47(a)
Filed: June 25, 2007	:	
Attorney Docket No. 184714-3005	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 09, 2011 .

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1), (2) and (4) set forth above.
It appears that only an oath/declaration was offered for signature. There is no evidence that the documents were mailed to the non-signing inventor.

As to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication herein that joint

inventor was Max Azevedo was presented with a copy of the complete application papers for this application. If the joint inventor was not presented with a copy of the application papers for this application, then the joint inventor could not attest that they have "reviewed and understand the application papers" and could not execute the declaration they were requested to sign. Did the joint inventor receive a copy of the application papers? The fact that an application may contain proprietary information does not relieve the rule 47 applicant of the responsibility to present the application papers to the joint inventors if the inventors are willing to receive the papers in order to sign the oath or declaration. Unless petitioner can show that a copy of the application papers was presented to the joint inventor , then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to the last known address of the joint inventor, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. **The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc.** *See* MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal was made.** Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

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

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,893,100	:	
Issue Date: 02/22/2011	:	
Application Number: 11/767,578	:	ON PETITION
Filing Date: 06/25/2007	:	
Attorney Docket Number: P51365D2	:	

This is a decision on the request under 37 CFR 3.81(b),[1] filed on May 5, 2011, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The $130.00 processing fee required by § 1.17(l) will be charged to counsel's deposit account, as authorized in the subject petition.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : November 28,2011

In re Application of :

Koji Abe

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11767640

Filed : 25-Jun-2007

Attorney Docket No : 03500.128223.

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed November 28,2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 1721 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11767640
Filing Date	25-Jun-2007
First Named Inventor	Koji Abe
Art Unit	1721
Examiner Name	RACHEL ZHANG
Attorney Docket Number	03500.128223.
Title	TONER

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	/Damond E. Vadnais/
Name	Damond E. Vadnais
Registration Number	52310

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed : April 19, 2011
Patent No. : 7,789,494 B2
Ser. No. :11/767655
Issued September 7, 2010
Inventor(s) : Young-ki Hong, et al.
Title : INKJET HEAD INCLUDING PLURALITY OF RESTRICTORS TO RESTRAIN CROSSTALK

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

Stanzione & Kim, LLP
919 18th Street, NW, Ste. 440
Washington, DC 20006

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAY 23 2011
OFFICE OF PETITIONS

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

In re Patent No. 7,789,494 :
Issue Date: September 7, 2010 :
Application No. 11/767,655 : ON PETITION
Filed: June 25, 2007 :
Attorney Docket No. 411-1069

This is a decision on the petition filed April 21, 2011, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TAROLLI, SUNDHEIM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND, OH 44114

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of	:	
Richard T. Halishak	:	
Application No. 11/767,684	:	DECISION ON PETITION
Filed: June 25, 2007	:	TO WITHDRAW
Attorney Docket No. 16-451C1/5120	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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 Stephen J. Schultz on behalf of all attorneys of record who are associated with customer No. 26294. All attorneys/agents associated with the Customer Number 26294 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed February 3, 2011 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

cc: RICHARD T. HALISHAK
4313 E. SPRAGUE ROAD
SEVEN HILLS, OH 44131

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
11/767,684	06/25/2007	Richard T. Halishak	16-451C1/5120

CONFIRMATION NO. 1793

POWER OF ATTORNEY NOTICE

26294
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

OC000000046986881

Date Mailed: 04/06/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/24/2011.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/767,863	06/25/2007	Frederick A. Ware	RBS2.P011C1	2080

44429 7590 08/02/2010
MAHAMEDI PARADICE KREISMAN LLP
550 Winchester Boulevard
Suite 605
SAN JOSE, CA 95128

EXAMINER
CYGIEL, GARY W

ART UNIT	PAPER NUMBER
2187	

MAIL DATE	DELIVERY MODE
08/02/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAHAMEDI PARADICE KREISMAN LLP
550 Winchester Boulevard
Suite 605
SAN JOSE CA 95128

In re Application of: WARE et al.
Application No. 11/767,863
Filed: June 25, 2007
Attorney Docket Number: RBS2.P011C1
For: MULTI-MODE MEMORY

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This paper provides the decision on the petition filed April 26, 2010 under 37 C.F.R. § 1.181 requesting withdrawal of the Finality of the Office Action mailed on March 1, 2010.

The Petition is **DISMISSED.**

Applicable Prosecution History

June 25, 2007	Original Application filed.
May 5, 2009	Examiner issued a FAOM (non-final Office action), rejecting at least claims 1 and 14 under 35 U.S.C. § 103(a) over Simmons (US Patent No. 6,587,917) in view of Inoue et al. (US Patent No. 6,075,728)
October 5, 2009	Applicant filed a response to the non-final action above, including amendment to the independent claims, 1 and 14, in an attempt to overcome the various rejections set forth in the preceding action.
March 1, 2010	Examiner mailed final action, rejecting at least claims 1 and 14 under 35 U.S.C. § 103(a) over Barth et al. (US Patent No. 6,356,975 B1) in view of Hampel et al. (US PGPub No. 2003/0052885 A1). Per this final action, Applicants amendment necessitated the New Grounds of rejection, and so action was made final.

March 24, 2010	Applicant filed a response to the final action, contesting the Finality of the Office Action mailed on March 1, 2010, in addition to arguing the merits of the references applied.
April 7, 2010	Advisory Action was mailed, maintaining the Finality of the office action mailed on March 1, 2010, on the grounds that the amendments changed the scope of the claims.
April 26, 2010	Instant petition filed, requesting withdrawal of finality of office action mailed on March 1, 2010.

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, 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. In addition § 1.181 (f) sets forth: 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.

The petition filed on April 26, 2010 includes the elements above, and is filed within 2 months of the mailing of the Final Office Action.

RELIEF REQUESTED

The Applicant respectfully that the Finality of the office action mailed on March 1, 2010 be withdrawn.

RULES AND PROCEDURE

706.07(a) [R-6] Final Rejection, When Proper on Second Action

.....

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

.....

A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which **should reasonably have been expected to be claimed**. See MPEP § 904 et seq. **>However, note that an **examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph)**.

DECISION

Petitioner contends that the new grounds of rejection of at least claims 1 and 14 under 35 U.S.C. § 103(a) over Barth et al. (US Patent No. 6,356,975 B1) in view of Hampel et al. (US PGPub No. 2003/0052885 A1) was not necessitated by amendments made by applicants.

The MPEP while stating that an action should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which **should reasonably have been expected to be claimed**, also states that an **examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph)**.

In the instant application, **Claim 1** has been amended as follows:

> (Currently Amended) A memory device comprising:
> storage banks each including a plurality of rows of storage cells, wherein a minimum time interval is imposed between successive accesses to a selected one of the rows of storage cells;
> data path circuitry to transfer data between the storage banks and an external signal path, wherein the memory device is operable in a first mode and a second mode, wherein:
> during the first mode of operation, a first data item is ~~transferred~~ **retrieved from a selected one of the rows** during a first time interval in response to a first memory access request, wherein the first time interval is not longer than the minimum time interval; and
> during the second mode of operation, a plurality of data items are ~~transferred~~ **retrieved from a plurality of rows of a corresponding plurality of storage banks** during the first time interval in response to a plurality of memory access requests, **wherein each of the plurality of data items comprises the totality of the data retrieved from the plurality of storage banks in response to the plurality of memory access requests**, and wherein each of the plurality of data items has a smaller granularity than the first data item.

Claim 14 has also been amended, as follows:

> 14. (Currently Amended) A memory device comprising:
> storage banks each including a plurality of rows of storage cells, wherein a first minimum time interval is imposed between successive row activations in arbitrarily different storage banks;
> **register circuitry to store one or more values specifying operation in one of a first mode or second mode;** and
> an interface to access the storage cells, the interface comprising circuitry to, **in the first mode, receive a first row activation request during a first time interval**, the first time interval not longer than the first minimum time interval, **and in the second mode, to receive first and second row activation requests directed to different**

storage banks during the first time interval, ~~wherein the first interval is not longer than the first minimum time interval.~~

Petitioner asserts that the action mailed on March 1, 2010 should not have been made final since the amendments made on October 5, 2009 "represented a reasonable and foreseeable clarification of claim language, that it incorporated language into the independent claims that was already considered in this case, and that these changes were either "inherent, or already presented and necessarily considered" by the examiner, and points to the rolling up of claim 2 into claim 1 as an example.

The amendment changed the claim language of claim 1 to recite "during the first mode of operation, a first data item is **"transferred"**; and also changed the claim language to recite "during the second mode of operation, a plurality of data items are ~~transferred~~ **retrieved from a plurality of rows of a corresponding plurality of storage banks"** from **"transferred".** These changes were presented to the examiner for the first time in the amendment dated October 5, 2009, and significantly changes the scope of the claim, and are neither inherent nor could have been considered by the examiner prior to the filing of the amendment. It must also be noted that the rolling up of claim 2 into claim 1 changes the scope of all the claims that originally depended from the original claim 1 (for example claims 10 – 12).

Petitioner argues that the Simmons (US Patent No. 6,587,917) and Inoue et al. (US Patent No. 6,075,728) were used in the rejection of claims in the parent case, and the "totality" limitation must have been foreseen by the examiner since "it represents the same amendment made in the parent case to address the same art raised by the Examiner in the parent case". It must be noted that there are many ways to amend a claim to overcome references applied in a rejection, and the amendment in the parent claim would have been only one of many ways the claims could have been amended. Each application is examined on its own merit, and examiner can not be expected to write a "hypothetical" rejection on features not included in the claims. It is noted that Applicants had possession of the above references before the mailing of the First Office Action on the Merits on the instant application, and could have presented amendments to the claims to overcome the references.

As to claim 14, as admitted by Petitioner, the "mode circuitry" was the substantial change effected by the amendment filed on October 5, 2009.

It is clear that the amendments to the claims filed on October 5, 2009, in the instant application changed the scope of the claims, in ways that could not have been foreseen by the examiner.

For the above stated reasons, the petition is **DISMISSED**.

The application remains under final rejection with the time period for response continuing to run from the mailing of the Final Office action, March 1, 2010

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NRR/MP

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,819,005

DATED : October 26, 2010

INVENTOR(S) : Neal R. Rueger

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

In column 15, line 21, in Claim 1, after "element" insert - - located laterally adjacent the at least one nanotube and - -.

In column 16, line 30, in Claim 15, after "impinge on" insert - - a lateral side surface of - -.

In column 18, line 8, in Claim 27, before "adjusting" insert - - encoding an electrical signal by - -.

In column 18, line 10, in Claim 27, delete "nanotube." and insert - - nanotube while passing electrical current through the nanotube. - -, therefor.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/29/10 **Paper No.:** —

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/767962 Patent No.: 7819005B2

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: _____

/J.S./

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/11

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11767969 Patent No.: 7884204

CofC mailroom date: 2/22/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

/Janet L. Andres/ 1625
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

WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518

MAILED
APR 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Geoff Swan, et al.	:	
Application No.: 11/768,014	:	ON PETITION
Filed: June 25, 2007	:	
Attorney Docket No.: 2867-472	:	

This is a decision on the petition, filed April 27, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 21, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2826 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Blake, Cassels & Graydon LLP
199 BAY STREET , SUITE 2800
COMMERCE COURT WEST
TORONTO ON M5L 1A9
CANADA

MAILED
FEB 15 2011
OFFICE OF PETITIONS

In re Application of Lazaridis, et al. Application No. 11/768,047 Filed: June 25, 2007 Attorney Docket No. 291010-00080-2 // 07314/00309	: : : : :	DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 9, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 9, 2010. Accordingly, the date of abandonment of this application is December 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00 ; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Publishing Division for processing into a patent.

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
www.uspto.gov

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of :
Balaji Srinivasa et al. :
Application No. 11/768,094 :
Filed: March 15, 2006 :
Attorney Docket No. **08-003-US-C1(149-0209USC)** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed May 16, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of Balaji Srinivasa et al. Application No. 11/768,094 Filed: March 15, 2006 Attorney Docket No. **08-003-US-C1(149-0209USC)**	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36(b), filed June 15, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative. Therefore, the change of correspondence address is still considered to be improper.

As stated in the previous decision of May 24, 2011, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

MAILED
MAR 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Alexei Gorokhov et al	:	
Application No. 11/768,135	:	DECISION DISMISSING PETITIONS
Filed: June 25, 2007	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 061505U1	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 23, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

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

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

The petition does not comply with item (1).

The 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.

Moreover, it is not sufficient to just identify all of the prior applications in the chain. To be proper, the appropriate references must have actually been 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.

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter(s) is required.

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

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucot
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUL 12 2011
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

In re Application of	:
Alexei Gorokhov et al	:
Application No. 11/768,135	: DECISION ON PETITIONS
Filed: June 25, 2007	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 061505U1	:

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 9, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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 Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2617 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.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/768,135	06/25/2007	2617	3430	061505U1	54	6

CONFIRMATION NO. 2495

CORRECTED FILING RECEIPT

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

OC000000048676224

Date Mailed: 07/11/2011

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)

Alexei Gorokhov, San Diego, CA;
Aamod Khandekar, San Diego, CA;
Mohammad J. Borran, San Diego, CA;
Rajat Prakash, San Diego, CA;

Assignment For Published Patent Application

QUALCOMM INCORPORATED, San Diego, CA

Power of Attorney: The patent practitioners associated with Customer Number 23696

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/816,281 06/23/2006
and is a CIP of 11/766,353 06/21/2007
which claims benefit of 60/815,733 06/21/2006
and is a CIP of 11/766,325 06/21/2007
which claims benefit of 60/815,664 06/21/2006

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

If Required, Foreign Filing License Granted: 07/18/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/768,135**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHODS AND SYSTEMS FOR PROCESSING OVERHEAD REDUCTION FOR CONTROL CHANNEL PACKETS

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
2050 MAIN STREET
SUITE 600
IRVINE CA 92614

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
SOSNOWSKI, Stephen A. et al.	:	
Application No. 11/768,152	:	DECISION ON PETITION
Filed: June 25, 2007	:	TO WITHDRAW
Attorney Docket No. **761408008US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 21, 2011.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to LUCE, FORWARD, HAMILTON & SCRIPPS LLP has been revoked by the assignee of the patent application on September 30, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PAUL T. PARKER**
PERKINS COIE LLP
P.O. BOX 1247
SEATTLE WA 98111-1247

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

FEB 07 2011

PCT LEGAL ADMINISTRATION

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

Fox Rothschild, LLP
Elan Pharma International Limited
997 Lenox Drive, Bldg. #3
Lawrenceville NJ 08648

In re Application of:	:	DECISION ON PETITION
DEVANE, John, G., et al.	:	(37 CFR 1.78(a)(3))
U.S. Application No.: 11/768,154	:	
Filing Date: June 25, 2007	:	
Atty Docket No.: 34074.00026/05.2025.US	:	
For: COMPOSITIONS COMPRISING NANOPARTICULATE NAPROXEN AND CONTROLLED RELEASE HYDROCODONE	:	

This is a decision on the "Petition For Unintentionally Delayed Claim Of Priority Under 37 C.F.R. § 1.78(A)(3)" filed November 18, 2010. The petition seeks acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a series of prior-filed U.S. non-provisional applications identified in the concurrently filed supplemental application data sheet (ADS) and amendment. Specifically, the petition seeks to add benefit claims identifying the present application as a continuation-in-part of U.S. Application No. 11/546,378, which is a divisional of U.S. Application No. 10/683,154, which is a continuation-in-part of U.S. Application No. 10/175,851, which is a continuation of U.S. Application No. 08/815,346 (now U.S. Patent No. 6,432,381).

For the reasons discussed below, the petition is **DISMISSED** without prejudice.

A petition under 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed benefit claim directed to prior-filed U.S. non-provisional applications is appropriate where, as here, the later-filed application was filed on or after November 29, 2000 and an acceptable benefit claim directed to the prior-filed applications was submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

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

With respect to item (1), above, the present petition was accompanied by a supplemental ADS that added appropriate references to the four prior-filed U.S. applications that are the subject of this petition. The references to these prior-filed applications contained in the supplemental ADS satisfy item (1) of a grantable petition under 37 CFR 1.78(a)(3).[1]

With respect to item (2), applicants have submitted payment of the applicable surcharge. Item (2) of a grantable petition under 37 CFR 1.78(a)(3) is therefore satisfied.

With respect to item (3), the petition expressly acknowledges the requirement for a statement that the entire delay was unintentional, and it states that the petition is accompanied by, among other materials, a statement that the entire delay in including the priority claim was unintentional. However, the petition does not include the required statement of unintentional delay, nor does such a statement appear to have been included in the materials filed with the petition. Item (3) of a grantable petition under 37 CFR 1.78(a)(3) is therefore not satisfied on the present record.[2]

Before the petition under 37 CFR 1.78(a)(3) may be granted, applicant must submit a properly signed renewed petition that includes or is accompanied by the required statement of unintentional delay. 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
Telephone: (571) 272-3296

---

[1] The petition was also accompanied by an amendment to the first paragraph of the description adding references to these four prior-filed applications; however, this amendment to the specification is improper as filed. Specifically, the first paragraph of the description, as amended, would include a statement incorporating by reference the contents of all the applications listed in such paragraph, including the four applications added by the amendment. Because the application as filed did not incorporate by reference these four applications, an amendment adding such a statement would be improper at this time. See MPEP section 201.06(c)(IV).

[2] It is noted that the electronic signature on the petition is not in acceptable form (the second slash is missing); thus, even if the petition included the required statement of unintentional delay, the statement would not be acceptable.

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

APR 27 2011

PCT LEGAL ADMINISTRATION

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

Fox Rothschild, LLP
Elan Pharma International Limited
997 Lenox Drive, Bldg. #3
Lawrenceville NJ 08648

In re Application of:	:	
DEVANE, John, G., et al.	:	
U.S. Application No.: 11/768,154	:	DECISION ON RENEWED
Filing Date: June 25, 2007	:	PETITION UNDER
Atty Docket No.: 34074.00026/05.2025.US	:	37 CFR 1.78(a)(3)
For: COMPOSITIONS COMPRISING	:	
NANOPARTICULATE NAPROXEN	:	
AND CONTROLLED RELEASE	:	
HYDROCODONE	:	

In a decision mailed on February 07, 2011, applicants' original petition under 37 CFR 1.78(a)(3) was dismissed for failure to satisfy all the requirements of a grantable petition. Specifically, the decision found that the petition did not include the required statement of unintentional delay.

On March 04, 2011, applicants filed the "Renewed Petition For Unintentionally Delayed Claim Of Priority Under 37 C.F.R. § 1.78(A)(3)" considered herein. The renewed petition includes an acceptable statement of unintentional delay and bears an acceptable electronic signature. In view of the submission of an acceptable statement of unintentional delay, applicants have now satisfied the final outstanding requirement for a grantable petition under 37 CFR 1.78(a)(3) to add a delayed domestic benefit claim under 35 U.S.C. 120 identifying the present application as a continuation-in-part of U.S. Application No. 11/546,378, which is a divisional of U.S. Application No. 10/683,154, which is a continuation-in-part of U.S. Application No. 10/175,851, which is a continuation of U.S. Application No. 08/815,346 (now U.S. Patent No. 6,432,381).

Based on the above, the renewed petition is appropriately **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 <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed 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 claims directed to U.S. application numbers 11/546,378, 10/683,154, 10/175,851, and 08/815,346 accompanies this decision on petition.

The application is being referred to the Office of Petitions for consideration of the "Petition Under 37 C.F.R. § 1.181(a) For Withdrawal Of A Holding Of Abandonment And Reinstatement Of An Application For Patent Based On Evidence That A Reply Was Timely Filed," filed herein on March 03, 2011.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3296

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOX ROTHSCHILD LLP
ALKERMES PLC
997 LENOX DRIVE BLDG #3
LAWRENCEVILLE NJ 08648

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Devane, et al.	:	
Application No. 11/768,154	:	DECISION ON PETITION
Filed: June 25, 2007	:	
Attorney Docket No. 34074.00026	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 3, 2011.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed May 26, 2010. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on February 16, 2011, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, timely filed with a three month extension of time on November 18, 2010. In addition, a review of Office finance records confirms that the Office received the three month extension of time fee on that date. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The application is being forwarded to Group Art Unit 1615 for consideration of the Amendment, timely filed with a three month extension of time on November 18, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fox Rothschild, LLP
Elan Pharma International Limited
997 Lenox Drive, Bldg. #3
Lawrenceville NJ 08648

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of :
DEVANE et al. :
Application No. 11/768,169 : ON PETITION
Filed: June 25, 2007 :
Docket No.: 34074.00045/05.2026.US :

This is a decision on the petitions filed November 24, 2010, under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Eugene R. Cooper, Tuula Ryde, John Pruitt, and Laura Kline, and (2) on 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 priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed Application Data Sheet and amendment.

The petition under 37 CFR § 1.48(a) is **DISMISSED**.

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

As to the inventorship change under 37 CFR § 1.48(a):
37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The petition does not comply with item (5). The request to correct the inventorship of this nonprovisional application under 37 CFR 1.48(a) is deficient because a 37 CFR 3.73(b) submission has not been received to support action by the assignee.

In regards to item (4), the rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition under 37 CFR 1.48(a) to correct the inventorship. In this instance, the fee required by law is $130.00. Petitioner's Deposit Account No. 50-1943 has been charged $130.00 as authorized in the petition.

As to the benefit claim under 37 CFR § 1.78(a)(3) and 1.78(a)(6):

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 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 items (1) and (3). In the Application Data Sheet, the filing date for application serial no. 10/354,483 should be January 30, 2003. In regards to the amendment to the specification, line 3 should be amended to read "which is a continuation-in-part of Application No. 10/827,689 ..."

In regards to item (3), 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Petitioner acknowledges that the statement of unintentional delay is required, but failed to include the statement. The statement should not vary from the required language as set forth in the rule.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

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
www.uspto.gov

Fox Rothschild, LLP
Elan Pharma International Limited
997 Lenox Drive, Bldg. #3
Lawrenceville NJ 08648

MAILED
DEC 08 2011
OFFICE OF PETITIONS

In re Application of :
DEVANE et al. :
Application No. 11/768,169 : ON PETITION
Filed: June 25, 2007 :
Docket No.: 34074.00045/05.2026.US :

This is a decision on the renewed petitions filed September 16, 2011, under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Eugene R. Cooper, Tuula Ryde, John Pruitt, and Laura Kline, and (2) on 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 priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed Application Data Sheet and amendment.

The petition under 37 CFR § 1.48(a) is **GRANTED**.

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

As to the inventorship change under 37 CFR § 1.48(a):
37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

In view of the renewed petition and the 37 CFR 3.73(b) submission filed September 16, 2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by the addition of Eugene R. Cooper, Tuula Ryde, John Pruitt, and Laura Kline.

As to the benefit claim under 37 CFR § 1.78(a)(3) and 1.78(a)(6):

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 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.

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

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

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

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

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1615 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.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/768,169	06/25/2007	1615	2080	34074.00045/05.2026.US	39	1

CONFIRMATION NO. 2558

CORRECTED FILING RECEIPT

61214
Fox Rothschild, LLP
Alkermes PLC
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

OC000000051349595

Date Mailed: 12/08/2011

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

Applicant(s)

John G. Devane, Athlone, IRELAND;
Paul Stark, Glasson, IRELAND;
Niall Fanning, Raheny, IRELAND;
Gurvinder Singh Rekhi, Suwanee, GA;
Scott A. Jenkins, Downingtown, PA;
Gary Liversidge, Westchester, PA;
Eugene R Cooper, Berwyn, PA;
Tuula Ryde, Malvern, PA;
John Pruitt, Collegeville, PA;
Laura Kline, Harleysville, PA;

Assignment For Published Patent Application

Elan Pharma International Limited, Athlone, IRELAND

Power of Attorney: The patent practitioners associated with Customer Number 61214

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/815,884 06/23/2006
and is a CIP of 11/372,857 03/10/2006
which is a CIP of 10/827,689 04/19/2004
which is a CON of 10/354,483 01/30/2003 PAT 6,793,936
which is a CON of 10/331,754 12/30/2002 PAT 6,902,742
which is a CON of 09/850,425 05/07/2001 PAT 6,730,325
which is a CON of 09/566,636 05/08/2000 PAT 6,228,398
which is a CON of PCT/US99/25632 11/01/1999
which claims benefit of 60/106,726 11/02/1998
This application 11/768,169

is a CIP of 10/784,900 02/24/2004
which claims benefit of 60/450,705 03/03/2003

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

If Required, Foreign Filing License Granted: 07/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/768,169**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COMPOSITIONS COMPRISING NANOPARTICULATE MELOXICAM AND CONTROLLED RELEASE HYDROCODONE

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).

SelectUSA

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage, facilitate, and accelerate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 29 2011

OFFICE OF PETITIONS

Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, California 91109-7068

In re Application of	:	
Jack Yongfeng ZHANG et al.	:	DECISION GRANTING PETITION
Application No. 11/768,181	:	UNDER 37 CFR 1.137(b)
Filed: June 25, 2007	:	
Atty. Docket No.: 59002/A734	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed June 23, 2010 ("outstanding Office action"), which set a shortened statutory period for reply of three (3) months. A 3-month extension of time was purchased under 37 CFR 1.136 (a). The application thus became abandoned on December 24, 2010.

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

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, a Request for Continued Examination (RCE) and RCE fee, (2) a petition fee of $1620.00, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

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

The application file will be referred to Technology Center Art Unit 1611 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 26 2010

OFFICE OF PETITIONS

GREENBERG TRAURIG, LLP (DC/ORL)
2101 L Street, N.W.
Suite 1000
Washington DC 20037

In re Application of	:	
Bonnie Amson	:	
Application No. 11/768,272	:	DECISION ON PETITION
Filed: June 26, 2007	:	
Attorney Docket No. 105888.010100	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 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 July 30, 2009. The Notice of Abandonment was mailed November 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on September 30, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3765 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

cc: **Wayne V. Harper**
Greenberg Traurig, PA
450 Orange Avenue, Suite 650
Orlando, FL 32801

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/15/11

TO SPE OF : ART UNIT: **2858 Attn: NGUYEN HA (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/768287 Patent No.: 7868630

CofC Mailroom date: 01/31/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

Ha Nguyen — **SPE**

2858 — **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

NAVAL UNDERSEA WARFARE CENTER
DIVISION NEWPORT
1176 HOWELL STREET
CODE 000C
NEWPORT RI 02841

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
NUTTALL, et al	:	
Application No. 11/768,361	:	DECISION ON PETITION
Filed: June 26, 2007	:	
Docket No. 83909	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 13, 2009.

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

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

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

This application is being referred to Technology Center AU 3662 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
BLDG. 14
ROSHARON TX 77583

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Lang Zhan et al	:	
Application No. 11/768,403	:	DECISION ON PETITION
Filed: June 26, 2007	:	
Attorney Docket No. 69.5736	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 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 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 12, 2010, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $490.00 extension of time fee submitted with the petition on September 28, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Therefore, petitioner may request a refund of the extension fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request.

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

This application is being referred to Technology Center AU 2856 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,425	06/26/2007	Jin Guk JEONG	1911.1106	3024

21171 7590 12/15/2011
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
TELAN, MICHAEL R

ART UNIT	PAPER NUMBER
2427	

MAIL DATE	DELIVERY MODE
12/15/2011	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, D.C. 20231
www.uspto.gov

MAILED

DEC 15 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

STAAS & HALSEY LLP
1201 New York Ave, N.W., Suite 700
Washington, DC 2005

In, re Application of: Jin Guk JEONG et al)
Application No. 11/768,425)
Attorney Docket No. 1911.1106)
Filed: 06/26/2007)
For: BROADCAST PROGRAM RECOMMENDATION METHOD AND APPARATUS USING SAID METHOD)

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 09/14/2007, requesting acceptance of color drawings.

The petition is **GRANTED**.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.84(a)(2) states:

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

(i) The fee set forth in § 1.17(h);

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

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

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

DECISION

The petition and preliminary amendment, satisfies conditions (i) - (iii) above; therefore, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of record.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-7527.

/Brian T. Pendleton/

Brian T. Pendleton, SPE
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,791,249 B2
Ser. No. : 11/768,428
Inventor(s) : Hines et al..
Issued : Sep. 7, 2010
Title : FREQUENCY CODED SENSORS INCORPORATING TAPERS
Docket No. : P06,0238-01 (33734-0011
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

OK TO ENTER: /ET/
10/2011

PATENT
66338/P849

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this correspondence is being electronically filed with the United States Patent and Trademark Office on October 10, 2011 at or before 11:59 p.m. Pacific Time under the Rules of 37 CFR § 1.8.

Signature

U.S. Patent No.	: 7,768,235	Confirmation No. 3167
Issued	: August 3, 2010	
Inventor(s)	: Yong-Jun Tae, et al.	
Application No.	: 11/768,506	
Filed	: June 26, 2007	
Title	: BATTERY MANAGEMENT SYSTEM AND METHOD FOR AUTOMOTIVE VEHICLE	

REQUEST FOR CERTIFICATE OF CORRECTION

Office of Certificates of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

P. O. Box 7068
Pasadena, CA 91109-7068
October 10, 2011

Commissioner:

Submitted herewith is a copy of a proposed Certificate of Correction for the above-referenced patent. The errors are identified in detail in the proposed certificate, and the corresponding text in the application is located as follows:

Location in Patent	**Location in Application**
PTO errors:	
On the Title Page	
None	
In the Claims	
None	
Applicant errors	
On the Title Page	
None	

U.S. Patent No. 7,768,235

In the Claims

Column 10, Claim 7, line 55	Amendment dated February 12, 2010, page 4, Old Claim 8, line 4
Column 11, Claim 9, line 18	Amendment dated February 12, 2010, page 5, Old claim 10, line 6
Column 12, Claim 15, line 2	Amendment dated February 12, 2010, page 6, Old Claim 16, line 3
Column 12, Claim 18, line 17	Amendment dated February 12, 2010, page 7, Old Claim 19, line 3
Column 12, Claim 20, line 34	Amendment dated February 12, 2010, page 7, Old Claim 21, line 2

Applicant(s) errors were unintentional and inadvertent, and were made in good faith through oversight. Correction is accordingly requested under 35 U.S.C. § 255, please deduct the statutory fee of $100.00 from Deposit Account No. 03-1728. Any deficiency or overpayment should be charged or credited to Deposit Account No. 03-1728. Please show our docket number with any credit or charge to our Deposit Account.

Correction of applicant(s) errors does not constitute new matter or require reexamination. Approval of this certificate is respectfully requested

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By _____

Peter C. Hsueh
Reg. No. 45,574
626/795-9900

PCH/smm
Enclosures: Certificate of Correction

SMM PAS1141890.1-*-10/8/11 1:58 PM

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,768,235

APPLICATION NO.: 11/768,506

ISSUE DATE : August 3, 2010

INVENTOR(S) : Yong-Jun Tae, et al.

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

On the Title Page

None

In the Claims

Column 10, Claim 7, line 55	After "discharged" Insert -- battery voltage --
Column 11, Claim 9, line 18	Delete "a"
Column 12, Claim 15, line 2	Delete "determined" Insert -- determine --
Column 12, Claim 18, line 17	After "period" Insert -- ; --
Column 12, Claim 20, line 34	After "integration" Insert -- of --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-28-11

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/768506 Patent No.: 7768235

CofC mailroom date: 10-10-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

Angela Green

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Examiner TSO has approved all changes.

/Melissa J Koval/ — **SPE**

2858 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-27-11

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/768529 Patent No.: 8010367

CofC mailroom date: 09-12-11

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 /David R. Hudspeth/ **Art Unit** 2626

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.
11/768,526	26 June, 2007	MUSCHETT ET AL.	N0484.70654US00

		EXAMINER	
WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206		DAVID HUDSPETH	
		ART UNIT	PAPER
		2626	20111117

DATE MAILED:

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

Commissioner for Patents

/David R Hudspeth/ Supervisory Patent Examiner, Art Unit 2626	David R Hudspeth SPE Art Unit: 2626

UNITED STATES PATENT AND TRADEMARK OFFICE

1-21-2011

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

Patent No. : 7,524,610 B2
Ser. No. : 11/768,632
Inventor(s) : Kyu-sik Kim, et. al.
Issued : April 28, 2009

Re: Request for Certificate of Correction

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

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

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

Page 2, of the title page, item 56, under Other Publications the word, purported to be in 1st column line 13th cannot be found in the printed patent.

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Seungman Kim
Stanzione & Kim, LLP
919 18th St., Suite 440
Washington, DC 20006

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stanzione & Kim, LLP
919 18th Street, NW
Suite 440
Washington DC 20006

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 11/768632	:	DECISION
Filing or 371(c) Date: 06/26/2007	:	ON PETITION
Patent No.: 7,524,610	:	
Issue Date: 04/28/2009	:	
Attorney Docket Number:	:	
401-1062	:	

This is a decision on the "Request for Certificate of Correction," filed September 29, 2011, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **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.

Applicant files the instant petition and requests correction of the assignee name to read: Samsung Electronics Co., Ltd., and Korea Advanced Institute of Science and Technology".

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

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

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

Analysis and conclusion

A review of the recorded assignment reveals that the name of the assignee appearing thereon is "Samsung Electronics Co., Ltd." The name of the assignee that appeared on the printed patent, Samsung Electronics Co., Ltd., was the name of the assignee on the assignment recorded with this Office. Applicant petitions to change the name of the assignee from that which appears on the recorded assignment by adding Korea Advanced Institute of Science and Technology, however, 37 CFR 3.81(b) provides for correction of the patent "to state the name of the assignee" as it appears on the recorded assignment. However, Korea Advanced Institute of Science and Technology does not appear on the recorded assignment.

The petition is dismissed as inappropriate.

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

AKA CHAN LLP
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of
Jonathan Helfman
Application No. 11/768,686
Filed: June 26, 2007
Attorney Docket No. **ORACP039**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 24, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71* or, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

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

to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke 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

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application of :

Chen, Song Ching et al. :
Application No. 11/768,788 : DECISION ON PETITION
Filed: June 26, 2007 : TO WITHDRAW
Attorney Docket No. **16126-4005** : 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 22, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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: **WILLIAM W. SCHAAL**
BLAKEY SOKOLOFF TAYLOR ZAFMAN
3200 PARK CENTER DRIVE
SUITE 700
COSTA MESA CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 09 2010

OFFICE OF PETITIONS

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA, SUITE 1600
IRVINE CA 92614-2558

In re Application of	:	
Fuyong ZHAO, et al	:	
Application No. 11/768,803	:	DECISION ON PETITION
Filed: June 26, 2007	:	TO WITHDRAW
Attorney Docket No. 16126.4006	:	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 22, 2010.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted above at items (1) through (3) have been performed. Please see the attached form PTO/SB/83 – Request for Withdrawal as Attorney.

Further, 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 change of address cannot be accepted because the correspondence address is not that of a new practitioner or law firm who has a proper power of attorney on record nor is the

address change to an assignee who has properly become of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-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

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.
11/768,807	06/26/2007	Xiao Ming Tang	ACU4-44232-US	3656

87884 7590 10/01/2010
Mossman, Kumar and Tyler, PC
P.O. Box 421239
Houston, TX 77242

EXAMINER
COSIMANO, EDWARD R

ART UNIT	PAPER NUMBER
2863	

NOTIFICATION DATE	DELIVERY MODE
10/01/2010	ELECTRONIC

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

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

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

docket@mktlaw.us.com
tthigpen@mktlaw.us.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper Number: 20100930

Kaushik Sriram (43,150)
Mossman, Kumar and Tyler, PC
P.O. Box 421239
Houston TX 77242

In re Application of:	:	
Xiao Ming Tang	:	DECISION ON PETITION
Serial No.: 11/768,807	:	FOR USE OF COLOR DRAWINGS UNDER 37
Filed: 06/26/2007	:	C.F.R 1.84(a)(2)
Attorney Docket No.: **ACU4-44232-US**	:	

This is a decision in response to the renewed, corrected, petition under 37 C.F.R. 1.84(a)(2) filed 09/21/2010 based on a phone conversation between Supervisory Dunn and Mr. Sriram. The petition fee has been paid.

The petition is **GRANTED**.

The Petition sets forth an explanation regarding why the color drawings are necessary, the required fee, the required paragraph is provided in the specification and includes three sets of color drawings.

Accordingly, the color drawings are accepted as formal drawings in the above-referenced application.

Drew A. Dunn, Supervisory Patent Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Appiah et al.	:	
Application No. 11/768,809	:	ON PETITION
Filed: June 26, 2007	:	
Attorney Docket No. 320311.01	:	

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 Request for Continued Examination (RCE) and an Amendment, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2451 for further processing of the RCE filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Application of

Rose, et al. :

Application No. 11/768,888

: DECISION ON PETITION

Filed: June 26, 2007

:

Attorney Docket No. **061250**

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 24, 2011. A Notice of Abandonment was mailed July 11, 2011.

The amendment filed December 14, 2011, is noted.

The application is being forwarded to Technology Center 2600, GAU 2628 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTEL CORPORATION
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Saha et al.	:	
Application No. 11/769,094	:	ON PETITION
Filed: June 27, 2007	:	
Attorney Docket No. P25035	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 2, 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, (2) the petition fee of $1620.00, 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 2189 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: DAVID P. MCABEE
2111 NE 25TH AVENUE
HILLSBORO, OR 97124

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Application of
Brantin Saha, et al.
Application No. 11/769,094
Filed: June 27, 2007
Attorney Docket No.: P25035

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 10, 2012.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 9, 2012, as required by the Notice of Allowance and Fee(s) Due mailed September 6, 2011. A Notice to File Corrected Application Papers was also mailed on November 14, 2011. Since no reply was filed, the application became abandonment by operation of law on January 6, 2012. On January 10, 2012, the present petition was filed. A Notice of Abandonment was subsequently mailed on January 19, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, the $1,740 issue fee and $300 publication fee; (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

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

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FERDINAND M. ROMANO, ESQUIRE
BEUSSE WOLTER SANKS MORA & MAIRE, P.A.
SUITE 2500
390 NORTH ORANGE AVENUE
ORLANDO FL 32801

MAILED

NOV 23 2011

OFFICE OF PETITIONS

In re Application of
Robert L. Huffer
Application No. 11/769,110
Filed: June 27, 2007
Attorney Docket No. 10840-005

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 9, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned July 2, 2010 for failure to timely file a reply to the final Office action mailed April 1, 2010. Accordingly, a Notice of Abandonment was mailed October 13, 2010.

---

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

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

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

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

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

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of April 1, 2010, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on April 1, 2010, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FERDINAND M. ROMANO, ESQUIRE
BEUSSE WOLTER SANKS MORA & MAIRE, P.A.
SUITE 2500
390 NORTH ORANGE AVENUE
ORLANDO FL 32801

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Application of
Robert L. Huffer
Application No. 11/769,110
Filed: June 27, 2007
Attorney Docket No. 10840-005

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed January 18, 2012 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 2, 2010 for failure to timely file a reply to the final Office action mailed April 1, 2010. Accordingly, a Notice of Abandonment was mailed October 13, 2010. A petition filed November 9, 2011 was dismissed in a decision mailed November 23, 2011, because the examiner indicated that the amendment filed with the petition did not prima facie place the application in condition for allowance.

In response thereof, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3626 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 Director may require additional information where there is a question whether the delay was unintentional; and

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of Addington et al. Application No. 10/769,382 Filed: January 30, 2004 Attorney Docket No. 043314/272073	: : : : :	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 August 3, 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.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
APR 17 2012
OFFICE OF PETITIONS

In re Application of :
Takaku, et al. :
Application No. 11/769,428 : ON PETITION
Filed: June 27, 2007 :
Attorney Docket No. CS30684SJ

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2012, to revive the above-identified application.

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

The above-identified application became abandoned May 16, 2011, for failure to file a proper reply to the final Office action mailed November 16, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed September 15, 2011.

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

The application file is being forwarded to Technology Center, GAU 2617 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 23 2011

OFFICE OF PETITIONS

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

In re Application of Kim et al.	:	
Application No. 11/769,481	:	On Application For
Filing Date: June 27, 2007	:	Patent Term Adjustment
Attorney Docket No. 18529US02	:	

This decision is being issued in response to the application for patent term adjustment filed December 7, 2010, which asserts the correct patent term adjustment to be indicated on the patent is nine hundred fifty-five days, not six hundred thirty-eight (638) days s as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant

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

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

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED
DEC 22 2011
OFFICE OF PETITIONS

In re Application of :
Maximilian Rosenzweig, et al. :
Application No.: 11/769,521 : ON PETITION
Filed: June 27, 2007 :
Attorney Docket No.: E0465.70035US00 :

This is a decision on the petition, filed December 22, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3723 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO CA 95814

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of
Myung Chan Choi
Application No. 11/769,538
Filed: June 27, 2007
Attorney Docket Number: ZTI5435.03A3

ON PETITION

This is a decision on the petition, filed September 22, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned July 26, 2010 for failure to pay the issue fee in response to the Notice of Allowance mailed on April 23, 2010. Accordingly, the Notice of Abandonment was mailed on August 6, 2010.

The issue fee in the amount of $755.00, publication fee in the amount of $300 and the petition fee in the amount of $810 have been charged to deposit account no. 07-1137 per the authorization included with the petition.

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

---

[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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter J. Gluck
c/o The Eclipse Group
Suite 150
1920 Main Street
Irvine CA 92614

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Richard James Maertz	:	DECISION ON PETITION
Application No. 11/769,632	:	TO WITHDRAW
Filed: June 27, 2007	:	FROM RECORD
Attorney Docket No. **37949.10101**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed February 15, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

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

A courtesy copy of this decision is being mailed to the address on the request. However, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Marlan D. Walker
2050 Main Street, Suite 600
Irvine, CA 92614

UNITED STATES 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. (SD)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Patent of Ding et al.	:	
Patent No. 7,957,179	:	
Issue Date: June 7, 2011	:	DECISION ON
Application No. 11/769,645	:	REQUEST FOR RECONSIDERATION
Filed: June 27, 2007	:	OF
Atty Docket No. 19340-011001	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed August 8, 2011. Patentees request that the revised patent term adjustment indicated on the patent be corrected from thirty-three (33) days to seven (7) days.

The petition is **GRANTED**.

On June 7, 2011, the above-identified application matured into U.S. Patent No. 7,957,179 with a revised patent term adjustment of 33 days. On Monday, August 8, 2011, patentees timely filed the instant petition.

Patentees disclose a 26 day period of Applicant delay associated with the submission of a Rule 312 amendment on April 15, 2011, after the mailing of a notice of allowance.

A Notice of Allowance was mailed on January 25, 2011. On April 15, 2011, applicants filed a Rule 312 amendment.

The filing of the April 15, 2011 Rule 312 amendment is a basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10).

> 37 CFR 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

A notice of allowance was mailed on January 26, 2011. Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 26 days, counting the number of days in the period beginning on April 15, 2011, the Rule 312 amendment was filed, and ending on and including May 10, 2011, the date the Office mailed a Corrected Notice of Allowance that addressed the April 15, 2011 Rule 312 amendment. Accordingly, a 26 day period of reduction will be entered.

In light of the above discussion, 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 seven (7) days, which is 191 days of A delay + 345 days of B delay minus 529 (61 + 442 + 26) days of applicant delay.

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

The 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 **seven (7)** 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 : 7,957,179 B2

DATED : **June 7, 2011** **DRAFT**

INVENTOR(S) : Ding 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 33 days

Delete the phrase "by 33 days" and insert – by 7 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 18 2010

OFFICE OF PETITIONS

MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDLAE FL 33330

In re Application of	:	
Jennifer RICHARD, et al	:	
Application No. 11/769,800	:	DECISION ON PETITION
Filed: June 28, 2007	:	TO WITHDRAW
Attorney Docket No. KNJ/PATENT	:	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 27, 2010.

The request is **APPROVED**.

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

The request was signed by Scott D. Smiley on behalf of the attorneys of record associated with Customer No. 27316.

The attorneys of record associated with Customer No. 27316 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: JENNIFER RICHARD
5231 S.W. 33RD AVENUE
MIRAMAR FL 33027

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
11/769,800	06/28/2007	Jennifer Richard	KNJ/Patent

CONFIRMATION NO. 5435

POWER OF ATTORNEY NOTICE

27316
MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE, FL 33330

OC000000044012555

Date Mailed: 10/15/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/27/2010.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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
APR 21 2011
OFFICE OF PETITIONS

In re Application of
Hichem Chakroun
Application No. 11/769,859
Filed: June 28, 2007
Attorney Docket No. FRAV2002-0012 US CNT

DECISION ON PETITION

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

The petition is **GRANTED**.

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 September 7, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 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 Notice of Appeal; (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 March 11, 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 1643 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ELSA KELLER
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Jonathan KUNKLE :
Application No. 11/769,891 : DECISION ON PETITION
Filed: June 28, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **2006P13286US01** :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 16, 2010. Accordingly, the date of abandonment of this application is 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 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 Monica A. Graves at (571) 272-7253.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **FILIP A. KOWALEWSKI**
SIEMENS CORPORATION IP DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/22/11

TO SPE OF : ART UNIT 1783

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/769,897 Patent No. 7,824,753

CofC mailroom date 3/16/11

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.

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

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

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

Comments: _____

/David R. Sample/
SPE

1783
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

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

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Yousuke Itagaki, et al.	:	
Application No.: 11/769,919	:	ON PETITION
Filed: June 28, 2007	:	
Attorney Docket No.: 8053-1068	:	

This is a decision on the petition, filed June 23, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 3, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 1717 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-29-10

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/769939 Patent No.: 7731810

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE — Art Unit 1733

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Frank Holm Iversen, et al.	:	
Application No. 11/770,005	:	DECISION ON PETITION
Filed: June 28, 2007	:	
Attorney Docket No. 6495-0227	:	

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

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed March 1, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 14, 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.

The showing required to establish nonreceipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

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

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

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

This application is being referred to the Technology Center technical support staff of Art Unit 3656 for re-mailing the Office action of March 1, 2010. The period for reply will run from the mailing date of the Office action.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Perkins Coie LLP
700 Thirteenth Street, NW
Suite 600
Washington DC 20005-3960

MAILED
JUL 13 2011
OFFICE OF PETITIONS

In re Application of
John HOIDAL et al.
Application No. 11/770,074
Filed: June 28, 2007
Attorney Docket No. 01881.8004.US01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 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 Requirement for Restriction/Election mailed September 17, 2010, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 18, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and response to the requirement for restriction/election; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the requirement for restriction/election of September 17, 2010 is accepted as having been unintentionally delayed.

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

Application No. 11/770,074

Telephone inquiries concerning this decision should be directed to Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1639 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
APR 10 2012
OFFICE OF PETITIONS

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

In re Application of :
LaBaer, et al. :DECISION ON APPLICATION
Application No.: 11/770,111 :FOR ADJUSTMENT
Filed:June 28, 2007 :PATENT TERM ADJUTSMENT
Attorney Docket No. 00246-280001/ HU 2686:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed March 16, 2012. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from three hundred and one (301) days to three hundred and thirty-eight (338) 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 three hundred and thirty-eight (338) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On December 19, 2011, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 301 days. On March 16, 2012, applicants submitted the instant petition. Applicants assert the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed December 19, 2011, is incorrect. Specifically, applicants state that:

> [a] reply to a Notice to File Missing Parts was due on or before November 12, 2007...Applicants filed a response to the Notice to File Missing Parts on December 7, 2007. Applicants were accorded 0 days delay for the late response...Applicants submit that the late response should have been accorded a total Applicant delay of 25 days...
>
> Applicants filed a response to a Restriction Requirement and an Information Disclosure Statement on September 10, 2009.

Applicants were accorded a delay of 62 days for a supplemental response. Applicants respectfully submit that the date of the response was entered incorrectly into the PAIR computer system, as July 10, 2009, instead of September 10, 2009. As such, the Information Disclosure Statement should not be considered a supplemental response, and Applicants request that the Office recalculate this period of Applicant Delay as 0 days.

Excerpt from APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed March 16, 2012. pages 1-2.

The application history has been reviewed and it has been 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 August 10, 2007, mailing date of the "Notice to File Missing Parts of Non-Provisional Application". On August 10, 2007, a "Notice to File Missing Parts of Non-Provisional Application" was mailed. On December 7, 2007, applicants filed a response to the "Notice to File Missing Parts of Non-Provisional Application". Thus, applicant failed to engage in reasonable efforts to conclude processing or examination of this application. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 25 days. A period of reduction of 25 days will be entered.

Further, applicants' argument relative to the reduction to the patent term adjustment under 37 CFR 1.704(c)(8) for the filing of an Information Disclosure Statement on September 10, 2009, is

---

[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.

persuasive. The reduction of 62 days is being removed, accordingly.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is three hundred and thirty-eight (338) days.

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 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

Patent Term Adjustments

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

Application Number*: 11770111 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11770111

Application Filing Date	06/28/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	393
A Delays	393	PTO Manual Adjustment	37
B Delays	0	Applicant Delay (APPL)	92
C Delays	0	Total PTA (days)	338

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
92	04/05/2012		P028	Adjustment of PTA Calculation by PTO	37		0
81	12/19/2011		MN/=.	Mail Notice of Allowance			0
80	12/15/2011		OAR	Office Action Review			0
79	12/15/2011		OAR	Office Action Review			0
78	12/15/2011		OAR	Office Action Review			0
77	12/15/2011		IREV	Issue Revision Completed			0
76	12/15/2011		DVER	Document Verification			0
75	12/15/2011		N/=.	Notice of Allowance Data Verification Completed			0
74	12/15/2011		DOCK	Case Docketed to Examiner in GAU			0
73	12/14/2011		EX.A	Examiner's Amendment Communication			0
71	12/14/2011		CNTA	Allowability Notice			0
72	12/13/2011		EXIE	Interview Summary - Examiner Initiated			0
70	10/28/2011		FWDX	Date Forwarded to Examiner			0
69	10/25/2011		A...	Response after Non-Final Action			0
68	07/26/2011		ELC_RVW	Electronic Review			0
67	07/26/2011		EML_NTF	Email Notification			0
66	07/26/2011	05/10/2011	MCTNF	Mail Non-Final Rejection	77		57
65	07/19/2011		OAR	Office Action Review			0
64	07/14/2011		OAR	Office Action Review			0
63	07/13/2011		CTNF	Non-Final Rejection			0
59	01/12/2011		FWDX	Date Forwarded to Examiner			0
56	01/12/2011		ABN9	Disposal for a RCE / CPA / R129			0
62	01/10/2011		IDSC	Information Disclosure Statement considered			0
61	01/10/2011		RCAP	Reference capture on IDS			0
60	01/10/2011		M844	Information Disclosure Statement (IDS) Filed			0
58	01/10/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
57	01/10/2011		RCEX	Request for Continued Examination (RCE)			0
55	01/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
54	01/10/2011		BRCE	Workflow - Request for RCE - Begin			0
53	10/13/2010		ELC_RVW	Electronic Review			0
52	10/13/2010		EML_NTF	Email Notification			0
51	10/13/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
50	10/07/2010		CTFR	Final Rejection			0
49	07/29/2010		FWDX	Date Forwarded to Examiner			0
48	07/27/2010		ELC.	Response to Election / Restriction Filed			0
47	07/16/2010		ELC_RVW	Electronic Review			0
46	07/16/2010		EML_NTF	Email Notification			0
45	07/16/2010		MCTRS	Mail Restriction Requirement			0
44	07/14/2010		CTRS	Restriction/Election Requirement			0
43	05/19/2010		FWDX	Date Forwarded to Examiner			0
42	05/14/2010	04/14/2010	A...	Response after Non-Final Action		30	36
41	05/14/2010		XT/G	Request for Extension of Time - Granted			0
38	01/23/2010		PST_CRD	Mail Post Card			0
37	01/15/2010		EML_NTF	Email Notification			0
36	01/14/2010		MCTNF	Mail Non-Final Rejection			0
35	01/11/2010		CTNF	Non-Final Rejection			0
29	11/11/2009		FWDX	Date Forwarded to Examiner			0
28	11/09/2009		ELC.	Response to Election / Restriction Filed			0
27	10/21/2009		ELC_RVW	Electronic Review			0
26	10/21/2009		EML_NTF	Email Notification			0
25	10/21/2009		MCTRS	Mail Restriction Requirement			0
24	10/16/2009		CTRS	Restriction/Election Requirement			0
23	09/17/2009		FWDX	Date Forwarded to Examiner			0
40	09/10/2009		RCAP	Reference capture on IDS			0
39	09/10/2009	07/10/2009	M844	Information Disclosure Statement (IDS) Filed		62	22

34	09/10/2009		IDSC	Information Disclosure Statement considered		0
21	09/10/2009		WIDS	Information Disclosure Statement (IDS) Filed		0
22	07/10/2009		ELC.	Response to Election / Restriction Filed		0
20	07/10/2009		ELC_RVW	Electronic Review		0
19	07/10/2009		EML_NTF	Email Notification		0
18	07/10/2009	08/28/2008	MCTRS	Mail Restriction Requirement	316	0.5
17	07/06/2009		CTRS	Restriction/Election Requirement		0
16	03/20/2008		PG-ISSUE	PG-Pub Issue Notification		0
15	02/27/2008		DOCK	Case Docketed to Examiner in GAU		0
14	01/30/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
13	12/21/2007		OIPE	Application Dispatched from OIPE		0
11	12/17/2007		FLRCPT.U	Filing Receipt - Updated		0
12	12/14/2007		PGPC	Sent to Classification Contractor		0
10	12/07/2007		ADDFLFEE	Additional Application Filing Fees		0
9	12/07/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
8	12/07/2007		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems		0
7	08/10/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
5	07/30/2007		L128	Cleared by L&R (LARS)		0
4	07/09/2007		L198	Referred to Level 2 (LARS) by OIPE CSR		0
3	07/09/2007		CLSS	CASE CLASSIFIED BY OIPE		0
2	07/05/2007		SCAN	IFW Scan & PACR Auto Security Review		0
1	06/28/2007		IEXX	Initial Exam Team nn		0
0.5	06/28/2007		EFILE	Filing date		0

Export to: Excel

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GE HEALTHCARE, IP DEPARTMENT
20225 WATER TOWER BLVD.,
MAIL CODE W492
BROOKFIELD WI 53045

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
KRISTOFFERSEN, et al	:	
Application No. 11/770,126	:	DECISION ON PETITION
Filed: June 28, 2007	:	
Attorney Docket No. 221507UL	:	

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**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 29, 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 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 and election, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted on October 27, 2010, was subsequent to

the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 50-2401.

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

This application is being referred to Technology Center AU 3768 for appropriate action by the Examiner in the normal course of business on the reply received October 27, 2010.

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

Doc Code: PET.GREEN
Document Description: Petition for Green Tech Pilot

PTO/SB/420 (05-10)
Approved for use through 01/31/2011. OMB 0651-0062
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO MAKE SPECIAL UNDER THE GREEN TECHNOLOGY PILOT PROGRAM

Attorney Docket Number: 50362-00003	Application Number (if known): 11/770,152	Filing date: June 28, 2007

First Named Inventor: Steven C. Kroll

Title: STRUCTURAL WALL PANELS AND METHODS FOR CONTROLLING INTERIOR CLIMATES

APPLICANT HEREBY REQUESTS TO PARTICIPATE IN THE GREEN TECHNOLOGY PILOT PROGRAM FOR THE ABOVE-IDENTIFIED APPLICATION. See Instruction Sheet on page 2.

This petition must be timely filed electronically using the USPTO electronic filing system, EFS-Web.

1. By filing this petition:

   Applicant is requesting early publication: Applicant hereby requests early publication under 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d) accompanies this request.

2. By filing this petition: applicant is agreeing to make an election without traverse in a telephonic interview and elect an invention that meets the eligibility requirements set forth in the notice titled "Pilot Program for Green Technologies Including Greenhouse Gas Reduction," as modified by the notice titled "Elimination of Classification Requirement in the Green Technology Pilot Program," each of which was published in the Federal Register, if the Office determines that the claims are not obviously directed to a single invention.

3. This request is accompanied by statements of special status for the eligibility requirement.

4. The application contains no more than three (3) independent claims and twenty (20) total claims.

5. The application does not contain any multiple dependent claims.

6. Other attachments: Preliminary Amendment

Signature /David F Dockery Reg No 34323/	Date August 6, 2010
Name (Print/Typed) David F. Dockery	Registration Number 34,323

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

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for Petition to Make Special Under the Green Technology Pilot Program

(Not to be Submitted to the USPTO)

The following is a summary of the requirements (for more information see the notices (i) "Pilot Program for Green Technologies Including Greenhouse Gas Reduction" and (ii) "Elimination of Classification Requirement in the Green Technology Pilot Program," available on the USPTO web site at http://www.uspto.gov/patents/init_events/green_tech.jsp):

(1) The application must be a non-reissue, non-provisional utility application filed under 35 U.S.C. 111(a), or an international application that has entered the national stage in compliance with 35 U.S.C. 371. The application must be previously filed before the publication date of the notice cited above. Reexamination proceedings are excluded from this pilot program.

(2) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must not contain any multiple dependent claims. For an application that contains more than three independent claims or twenty total claims, or multiple dependent claims, applicant must file a preliminary amendment in compliance with 37 CFR 1.121 to cancel the excess claims and/or the multiple dependent claims at the time the petition to make special is filed.

(3) The claims must be directed to a single invention that materially enhances the quality of the environment, or that materially contributes to: (1) the discovery or development of renewable energy resources; (2) the more efficient utilization and conservation of energy resources; or (3) green house gas emission reduction (see the eligibility requirements of sections II and III of the notice (i) cited above). The petition must include a statement that, if the USPTO determines that the claims are directed to multiple inventions (e.g., in a restriction requirement), applicant will agree to make an election without traverse in a telephonic interview, and elect an invention that meets the eligibility requirements in section II or III of the notice (i) cited above.

(4) The petition to make special must be timely filed electronically using the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen. Applicant should use form PTO/SB/420, which is available as a Portable Document Format (PDF) fillable form in EFS-Web and on the USPTO Web site.

(5) The petition to make special must be filed at least one day prior to the date that a first Office action (which may be an Office action containing only a restriction requirement) appears in the Patent Application Information Retrieval (PAIR) system. Applicant may check the status of the application using PAIR.

(6) The petition to make special must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d).

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.
11/770,152	06/28/2007	Steven C. Kroll	50362-00003	5952

25231 7590 08/17/2010
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

EXAMINER
OREILLY, PATRICK F

ART UNIT	PAPER NUMBER
3749	

MAIL DATE	DELIVERY MODE
08/17/2010	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

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

MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver CO 80237

In re Application of	:	
KROLL, STEVEN C. et al.	:	DECISION ON PETITION
Application No. 11/770,152	:	TO MAKE SPECIAL UNDER
Filed: June 28, 2007	:	THE GREEN TECHNOLOGY
Attorney Docket No. 50362-00003	:	PILOT PROGRAM
Title of Invention: STRUCTURAL WALL PANELS AND METHODS AND SYSTEMS FOR CONTROLLING INTERIOR CLIMATES		

This is a decision on the petition under 37 CFR 1.102, filed August 6, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of

the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item 8.

In regard to item 8, petitioner should note that since no request in compliance with 37 CFR 1.219 has been made for the early publication of the present application and the publication fee $300.00 as set forth in 37 CFR 1.18(d) has not been received, the petition is dismissed.

Any reconsideration of this decision should be submitted through the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

The application is being forwarded to the Technology Center Art Unit 3749 for action in its regular turn.

/Henry C. Yuen/

Henry C. Yuen
Quality Assurance Specialist
Technology Center 3700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:	)	Group Art Unit: 3749
Kroll et al.	)	Examiner: O'Reilly
Serial No.: 11/770,152	)	**PETITION FOR RECONSIDERATION**
Filed: June 28, 2007	)	
Confirmation No.: 5952	)	VIA ELECTRONIC SUBMISSION
Atty. File No.: 50362-00003	)	
For: "STRUCTURAL WALL PANELS AND METHODS AND SYSTEMS FOR CONTROLLING INTERIOR CLIMATES"	)	

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

Dear Sir:

This is a petition for reconsideration of the "Decision on Petition to Make Special Under the Green Technology Pilot Program" with respect to the above-identified application, having a mailing date of August 17, 2010.

Applicants petition for reconsideration of the Decision. In the Decision, it is noted that the original Petition to Make Special was not accompanied by a request for early publication in compliance with 37 CFR 1.219 and the publication fee as set forth in 37 CFR 1.18(d). However, Applicants note that the only item actually missing was the publication fee under 37 CFR 1.18(d). Therefore, Applicants are submitting the fee under 37 CFR 1.18(d) with this Petion for Reconsideration. For the convenience of the Quality Assurance Specialist, a complete copy of the original Petion to Make Special and the Preliminary Amendment are attached as Exhibit A.

Accordingly, the materiality standard for the pilot program has been met as well as all other requirements set forth in the requirements for the Green Technology Pilot Program.

It is not believed that any additional fees are owed with respect to this Petition for Reconsideration, however if any fees are owed the U.S. Patent Office is hereby authorized to charge such fees to Deposit Account No. 50-1419.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

Date: September 17, 2010

By: /David F Dockery Reg No 34323/

David F. Dockery
Registration No. 34,323
8055 East Tufts Avenue, Suite 450
Denver, CO 80237
303-770-0051

EXHIBIT A

Doc Code: PET.GREEN
Document Description: Petition for Green Tech Pilot

PTO/SB/420 (05-10)
Approved for use through 01/31/2011. OMB 0651-0062
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO MAKE SPECIAL UNDER THE GREEN TECHNOLOGY PILOT PROGRAM

Attorney Docket Number: 50362-00003	Application Number (if known): 11/770,152	Filing date: June 28, 2007

First Named Inventor: Steven C. Kroll

Title: STRUCTURAL WALL PANELS AND METHODS FOR CONTROLLING INTERIOR CLIMATES

APPLICANT HEREBY REQUESTS TO PARTICIPATE IN THE GREEN TECHNOLOGY PILOT PROGRAM FOR THE ABOVE-IDENTIFIED APPLICATION. See Instruction Sheet on page 2.

This petition must be timely filed electronically using the USPTO electronic filing system, EFS-Web.

1. By filing this petition:

   Applicant is requesting early publication: Applicant hereby requests early publication under 37 CFR 1.219 and the publication fee set forth in 37 CFR 1.18(d) accompanies this request.

2. By filing this petition: applicant is agreeing to make an election without traverse in a telephonic interview and elect an invention that meets the eligibility requirements set forth in the notice titled "Pilot Program for Green Technologies Including Greenhouse Gas Reduction," as modified by the notice titled "Elimination of Classification Requirement in the Green Technology Pilot Program," each of which was published in the Federal Register, if the Office determines that the claims are not obviously directed to a single invention.

3. This request is accompanied by statements of special status for the eligibility requirement.

4. The application contains no more than three (3) independent claims and twenty (20) total claims.

5. The application does not contain any multiple dependent claims.

6. Other attachments: Preliminary Amendment

Signature /David F Dockery Reg No 34323/	Date August 6, 2010
Name (Print/Typed) David F. Dockery	Registration Number 34,323

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

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:	)	Group Art Unit: 3749
Kroll et al.	)	Examiner: O'Reilly
Serial No.: 11/770,152	)	**STATEMENT OF SPECIAL STATUS FOR THE ELIGIBILITY REQUIREMENT**
Filed: June 28, 2007	)	
Confirmation No.: 5952	)	VIA ELECTRONIC SUBMISSION
Atty. File No.: 50362-00003	)	
For: "STRUCTURAL WALL PANELS AND METHODS AND SYSTEMS FOR CONTROLLING INTERIOR CLIMATES"	)	

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

Dear Sir:

Enclosed herewith is a request that the Commissioner of Patents accord "special" status to the subject application, advancing its examination under the provisions of Rule 37 C.F.R. 1.102(c) as modified by the Pilot Program for Green Technologies Including Greenhouse Gas Reduction published at 74 FR 64666 on December 8, 2009, and as further modified by the Elimination of Classification Requirement in the Green Technology Pilot Program published at 75 FR 28554 on May 21, 2010. In accordance with the Green Technology Pilot program, the request comprises a Petition to Make Special Under the Green Technology Pilot Program. Applicants note that this application was published on January 1, 2009.

Applicant submits that special status should be granted to the subject application under the pilot program. The invention concerns structural panels (e.g., wall panels) and systems for controlling interior climates in a highly energy efficient manner. Thus, the invention materially contributes to: (1) the enhancement of the quality of the environment by

contributing to the maintenance of the basic life-sustaining elements; and (2) the more efficient utilization and conservation of energy resources or the reduction of greenhouse gases.

Advantages realized by the claimed structural panels and temperature regulation systems include increased energy efficiency at a conventional cost. For example, the structural panels are highly insulative may provide an R-value of 34. When implemented to cool an interior climate, the radiant cooling system may provide up to a 42% increase in energy efficiency in warm, dry climates. When utilized for heating, the radiant heating system may provide up to 40% increase in energy efficiency as compared to traditional heating systems. Overall, the temperature regulating systems may have an HERS score (Home Energy Rating) of 20 or lower, *i.e.*, 80% more energy efficient than conventional construction. Thus, the structural panels and temperature regulating systems are highly energy efficient and may also lead to a reduction in greenhouse gases. The temperature regulation systems can also incorporate free/renewable energy input, such as photovoltaic cells (*e.g.,* Claim 30) or geothermal loops (*e.g.*, Claim 32).

Accordingly, the materiality standard for the pilot program has been met as well as all other requirements set forth in the requirements for the Green Technology Pilot Program.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

Date: August 6, 2010

By: /David F Dockery Reg No 34323/

David F. Dockery
Registration No. 34,323
8055 East Tufts Avenue, Suite 450
Denver, CO 80237
303-770-0051

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.
11/770,152	06/28/2007	Steven C. Kroll	50362-00003	5952

25231 7590 09/24/2010
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

EXAMINER
MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
3749	

MAIL DATE	DELIVERY MODE
09/24/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver CO 80237

In re Application of	:	
KROLL, STEVEN C. et al.	:	DECISION ON PETITION
Application No. 11/770,152	:	TO MAKE SPECIAL UNDER
Filed: June 28, 2007	:	THE GREEN TECHNOLOGY
Attorney Docket No. 50362-00003	:	PILOT PROGRAM
Title of Invention: STRUCTURAL WALL PANELS AND METHODS AND SYSTEMS FOR CONTROLLING INTERIOR CLIMATES		

This is a decision on the renewed petition under 37 CFR 1.102, filed Sep. 17, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010).

The petition is **GRANTED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of

the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Henry Yuen at 571-272-4856.

The application is being forwarded to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

/Henry C. Yuen/

Henry C. Yuen
Quality Assurance Specialist
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jetter & Associates, P.A.
8295 North Military Trail
Suite B
Palm Beach Gardens FL 33410

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Qun Huo et al.	:	
Application No. 11/770,279	:	ON PETITION
Filed: June 28, 2007	:	
Attorney Docket No. UCF-7140	:	

This is in response to the PETITION TO EXPUNGE, filed October 20, 2010, which is being treated as a petition under 37 CFR 1.59(b) to expunge papers from the file record.

The petition under 37 CFR 1.59 is **dismissed**.

The instant petition requests expungement of the examiner interview mailed April 19, 2010. Petitioner indicates this interview summary was meant for another application file.

A review of the interview summary shows proper identifiers for the instant application. Petitioner avers the examiner of record agrees this interview summary was meant for another application filed.

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 interview summary of April 19, 2010 is part of the application file record. Expungement 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.

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 communication includes any trade secret, is proprietary in nature, is subject to a protective order, or contains 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 communication was issued.

Accordingly, no adequate basis is given or apparent for expunging the contested Office communication, 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").

To clarify the record, the examiner need merely provide some explanation in the next Office communication as to the existence of the interview summary. To date there is no comment from the examiner as to the appropriateness of the interview summary in this application.

For the reasons presented, the petition is dismissed.

The application is being forwarded to Technology Center Art Unit 1767.

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

Paper No.

MITSUBISHI ELECTRIC RESEARCH LABORATORIES, INC.
201 BROADWAY
8TH FLOOR
CAMBRIDGE MA 02139

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of :
Tao et al. :
Application No. 11/770,327 :
Filed: June 28, 2007 :
Attorney Docket No. MERL-1946 :
Title: PROTOCOL DATA UNITS AND :
HEADER IN MULTIHOP RELAY :
NETWORK :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 25, 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 reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed August 31, 2010, which set a shortened statutory period for reply of three months. An after-final amendment was received on November 30, 2010, and an advisory action was mailed on January 7, 2011. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested, and no further responses were received. Accordingly, the above-identified application became abandoned on December 1, 2010. A notice of abandonment was mailed on April 26, 2011.

On August 25, 2011, Petitioner filed 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 November 30, 2010 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 November 30, 2010 - can be processed in due course.

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

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

Paul Shanoski
Senior Attorney
Office of Petitions

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

OCT 15 2010

OFFICE OF PETITIONS

In re Application of :
Tae Yun KIM, et *al.* :
Application No. 11/770,351 :
Filed: June 28, 2007 :
Attorney Docket No. **311370US8** :

NOTICE PURSUANT TO
37 CFR § 1.28(c)

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-7353.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SNR DENTON US LLP
P.O. BOX 061080
CHICAGO, IL 60606-1080

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Application of
Luis Antoino Canales Miranda
Application No. 11/770,373
Filed: June 28, 2007
Attorney Docket No. 10000031-0002-002

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 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, April 30, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 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 1759 for appropriate action by the Examiner in the normal course of business on the reply received March 4, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

OK TO ENTER: /G.W./

Attorney Docket No.: 23010-0076001 / 338.8410USU

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Emil Kneer	Art Unit	: 1761
Patent No.	: 7,947,637	Examiner	: Gregory Webb
Issue Date	: May 24, 2011	Conf. No.	: 6323
Serial No.	: 11/770,382		
Filed	: June 28, 2007		

Title : CLEANING FORMULATIONS REMOVING RESIDUES ON SURFACES

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REQUEST FOR CERTIFICATE OF CORRECTION

Applicant hereby requests that a certificate of correction be issued for the above patent in accordance with the attached request.

All errors sought to be corrected were made in printing by the Patent and Trademark Office. No fee is believed to be due.

Please apply any charges to Deposit Account No. 06-1050, referencing Attorney's Docket No. 23010-0076001.

Respectfully submitted,

Date: June 13, 2011

/Tony Zhang/
Tony Zhang, Ph.D.
Reg. No. L0256

Customer Number 26161
Fish & Richardson P.C.
Telephone: (212) 765-5070
Facsimile: (877) 769-7945

30618228.doc

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: June 13, 2011.

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. .: 7,947,637

APPLICATION NO .: 11/770,382

DATED .: MAY 24, 2011

INVENTOR(S) .: EMIL KNEER

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

First Page, Col. 2, Line 4 (Other Publications)
Delete "97810054.2." and insert -- 07810054.2 --, therefor.

Column 29, Line 13
In Claim 4, delete "R'" and insert -- R^1 --, therefor.

MAILING ADDRESS OF SENDER:

Tony Zhang, Ph.D.
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110627

DATE : June 27, 2011

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 7,947,637

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: /Harold Pyon/ **Art Unit** 1761

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.
11/770,446	06/28/2007	Aram Lindahl	APL-P5560US1	6422

62096 7590 08/02/2010
PVF -- APPLE INC.
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

EXAMINER
CHANG, ERIC

ART UNIT	PAPER NUMBER
2116	

MAIL DATE	DELIVERY MODE
08/02/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PVF – APPLE INC
c/o PARK, VAUGHN & FLEMING LLP
2820 Fifth Street
Davis CA 95618

In re Application of	:	
LINDAHL, Aram et al.	:	DECISION ON PETITION
Application No. 11/770,446	:	TO MAKE SPECIAL UNDER
Filed: June 28, 2007	:	THE GREEN TECHNOLOGY
Attorney Docket No. APL-P5560US1	:	PILOT PROGRAM

This is a decision on the renewed petition under 37 CFR 1.102, filed July 16, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 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 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent

Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the Technology Center Art Unit 2116 for action on the merits commensurate with this decision.

Telephone inquires concerning this decision should be directed to Eddie C. Lee at 571-272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 18 2010

OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

In re Application of	:	
Lauren O. Bakaletz et al.	:	
Application No. 11/770,447	:	NOTICE
Patent No. 7,638,282	:	
Filed: June 28, 2007	:	
Attorney Docket No. **28335/38815B**		

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

UNITED STATES 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	:	
Scott **ELY**	:	
Application No. 11/770,542	:	DECISION ON PETITION
Filed: June 28, 2007	:	TO WITHDRAW
Attorney Docket No. **1292.1393101**	:	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** as moot.

A review of the file record indicates that the power of attorney to Sprinkle IP Law Group/Zimmer has been revoked by the assignee of the patent application on February 09, 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 new address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

/Michelle R. Eason/
Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FELDMAN LAW GROUP, P.C.
220 East 42nd Street, Suite 3304
NEW YORK NY 10017

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Dave Lapa et al.	:	
Application No. 11/770,564	:	DECISION ON PETITION
Filed: June 28, 2007	:	TO WITHDRAW
Attorney Docket No. RJENK25.001DVC1	:	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. 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 E. Feldman on behalf of all attorneys/agents associated with customer number 76943. All attorneys/agents associated with customer number 76943 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: Davy Lapa
12 Palmaniaan
Antwerpen, Belgium 2020

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
11/770,564	06/28/2007	Dave Lapa	RJENK25.001DVC1

CONFIRMATION NO. 6601

POWER OF ATTORNEY NOTICE

76943
FELDMAN LAW GROUP, P.C.
220 East 42nd Street, Suite 3304
NEW YORK, NY 10017

OC000000043984121

Date Mailed: 10/14/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/29/2010.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBERG TRAURIG (NJ)
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK NJ 07932

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
LAPA et al	:	
Application No. 11/770,564	:	ON PETITION
Filed: June 28, 2007	:	
Attorney Docket No. 130373.010400	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 28, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). An extension of time for one (1) month pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 29, 2010. A Notice of Abandonment was mailed November 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on April 25, 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 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jones Day
222 East 41st Street
New York NY 10017-6702

MAILED
DEC 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Brian Dote, et al.	:	
Application No. 11/770,617	:	DECISION GRANTING PETITION
Filed: June 28, 2007	:	UNDER 37 CFR 1.313(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 7, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 31, 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 2444 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

MAILED

MAR 15 2012

OFFICE OF PETITIONS

In re Application
Brian Dote et al.
Application No. 11/770,617
Filed: June 28, 2007
Attorney Docket No. **P5464US1**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed March 8, 2012. Applicant requests that the determination of patent term adjustment be corrected from 792 to 1196 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 being 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). The petition is 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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AEON LAW
1525 4TH AVE, STE 800
SEATTLE WA 98101-1648

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Maria Gaos, et al.	:	
Application No. 11/770,629	:	DECISION ON PETITION
Filed: June 28, 2007	:	TO WITHDRAW
Attorney Docket No. GAOS-2007023	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 13, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 cannot be approved because the proper certifications were not made on the PTO/SB/63 form. Boxes 2 & 3 were left unchecked.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Maria Gaos**
22104 4th Place W
Bothell, WA 98021

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170

MAILED
NOV 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Dhindsa et al.	:	
Application No. 11/770664	:	
Filing or 371(c) Date: 06/28/2007	:	ON PETITION
Attorney Docket Number:	:	
P1660/LMRX-P136	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2011, 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 final Office action, mailed March 11, 2011. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 12, 2011. A Notice of Abandonment was mailed October 17, 2011.

Applicant files the present petition and Amendment in response to the Office action.

Applicable law, Rules and MPEP

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

a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The present petition and amendment

The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance.

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date January 4, 2012

In re Application of Rajinder Dhindsa

Application No. 11770664

Filed: 28-Jun-2007

Attorney Docket No. P1660/LMRX-P1

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), January 4, 2012 , to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the outstanding final Office action. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and/or response, Request for Continued Examination, and the filing fee required under 37 CFR 1.17(e); (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the Request for Continued Examination and the amendment and/or response are accepted as having been unintentionally delayed.

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

This application file is being directed to the Technology Center.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**
Application Number	11770664
Filing Date	28-Jun-2007
First Named Inventor	Rajinder Dhindsa
Attorney Docket Number	P1660/LMRX-P136
Title	METHODS AND ARRANGEMENTS FOR PLASMA PROCESSING SYSTEM WITH TUNABLE CAP

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

Petition Fee

- ○ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ○ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ○ Applicant(s) status remains as SMALL ENTITY.
- ◉ Applicant(s) status remains as other than SMALL ENTITY.

2. Reply and/or fee

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on
- ○ Amendment and response are attached

RCE request,submission, and fee.

- ○ I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on
- ◉ RCE Request, Submission, and Fee are attached

Notice of Appeal

○ I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on

○ Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Joseph A. Nguyen/
Name	Joseph A. Nguyen
Registration Number	37899

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED
OCT 18 2011
OFFICE OF PETITIONS

In re Application of
Liao et al.
Application No. 11/770,721
Filed: June 28, 2007
Attorney Docket No. PMXP0217USA

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed January 11, 2011. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 12, 2011. A Notice of Abandonment was mailed on September 23, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1860.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 2625 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111014

DATE : October 14, 2011

TO SPE OF : ART UNIT 2116

SUBJECT : Request for Certificate of Correction on Patent No.: 7890778

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:

No new matter, no impact on scope or meaning of claims.

/KIM HUYNH/
Supervisory Patent Examiner.Art Unit 2116

UNITED STATES 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 Mailed :April, 18, 2011
Serial No. : 11/770852
Patent No. :7,890,998 B2
Patent Issued :February 5, 2011
Inventor(s) Yantian Tom Lu, et al.et al.
Title SYSTEM AND METHOD FOR SELECTIVE AUTHENTICATION WHEN ACQUIRING A ROLE

Re: Request for Certificate of Correction

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

A petition under C.F.R. 1.182 is required to correct the alleged errors in spelling or order of inventor's names, since inventor's names are printed solely in accordance with the type-written names, and in the order of the type-written names on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names in correct order, be indicated on the Declaration or Oath, no correction is in order here under the provisions of Rule 1.323 (required fee currently $100), unless a petition is granted.

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

However, a petition under 37 CFR 1.182 (required fee currently $130) should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX 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

Magdalene Talley
For Mary Francis Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
Fax 571-270-9942

IBM Corporation
11400 Burnet Road
Austin, TX 78758

MD/mt

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.
11/770,877	06/29/2007	Patricia Londino	LONDP003US	7078

27949 7590 12/15/2010
LAW OFFICE OF JAY R. YABLON
910 NORTHUMBERLAND DRIVE
SCHENECTADY, NY 12309-2814

EXAMINER
KIM, SHIN H

ART UNIT	PAPER NUMBER
3611	

NOTIFICATION DATE	DELIVERY MODE
12/15/2010	ELECTRONIC

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

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

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

jyablon@nycap.rr.com
jay_r_yablon@msn.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

DEC 14 2010

Jay R. Yablon
Law Office of Jay R. Yablon
910 Northumberland Drive
Schenectady, NY 12309-2814

In re Application of	:	
Londino, Patricia	:	
Application No.: 11/770,877	:	*SUA SPONTE*
Filed: June 29, 2007	:	RECISSION OF NON-FINAL
For: Label Sleeve for Medication Dosage Reminder And Confirmation Systems	:	OFFICE ACTION

A review of the application reveals that a Request for Suspension was included in the Request for Continued Examination filed September 14, 2010.

An office action was mailed October 6, 2010, due to a failure to notice the Suspension request. In order for the Request to be granted there can be no outstanding office action awaiting Applicant's action. The Request was filed before the office action was actually mailed.

In view of these facts, the office action mailed October 6, 2010 is hereby vacated.

In view of the Suspension request, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 3 months from September 14, 2010. At the end of this period, the application will be placed on the examiner's docket for further prosecution. See MPEP 709.

Inquires related to this decision may be directed to Lesley Morris at (571) 272-6651

David Talbott, Director
Technology Center 3600
(571) 272-5250

Ldm/snm: 12/01/10

SM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Howard I. Levy
Cantor Colburn, LLP
20 Church Street, 22nd Floor
Hartford, CT 06103

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Application of :
Ishfak. F. Bhagat et al :
Application No. 11/770,881 : ON PETITION
Filed: June 29, 2007 :
Attorney Docket No. IN920060042US1 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed April 5, 2011, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 6, 2011.

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

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

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

MAILED
SEP 15 2010
OFFICE OF PETITIONS

Applicants: Wei-Kuo Wu
Appl. No.: 11/770,892
Filing Date: June 29, 2007
Title: PLANAR FLIP AND SMALL CHIPS INTEGRATED LED CHIP AND ITS MANUFACTURE METHOD
Attorney Docket: P01096-NAN-0001-US
Pub. No.: US 2008/0121905 A1
Pub. Date: May 29, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 6, 2010, for the above-identified application.

The request is dismissed.

Applicant request that the application be republished because the patent application publication contains an error wherein the claims published does not belong to his application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable.**" A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on January 6, 2010, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Kun ZHOU, et *al.*	:	
Application No. 11/770,974	:	DECISION GRANTING PETITION
Filed: June 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MS1-3613US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 30, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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 information disclosure statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Young & Thompson
209 Madison Street
Suite 500
Alexandria, VA 22314

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Barry Mosteller	:	
Application No. 11/770,984	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW FROM
Attorney Docket No. 0579-1151	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed February 11, 2011.

It is noted that practitioner has not certified that he has (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. *See USPTO Form No. PTO/SB/83*[1].

It is further noted that practitioner has not provided a correspondence address for the intervening assignee[2] or first named singing inventor. Practitioner is reminded that the Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (*See* USPTO Form PTO/SB/82).

In view of the above, the request to withdraw is under 37 CFR §§ 1.36(b) or 10.40 **NOT APPROVED**.

---

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

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

There is an outstanding Office action mailed March 8, 2011, that requires a reply from the applicant.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Liam McDowell
1061 Dalebrook Drive
Alexandria, VA 22308

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA SOLUTIONS INC
IP LAW DOCKETING
1303 EAST ALGONQUIN ROAD
IL01/11TH FLOOR
SCHAUMBURG IL 60196

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeffery B. Wilhite	:	
Application No. 11/771,005	:	ON PETITION
Filed: June 29, 2007	:	
Attorney Docket No. CM09841NBH	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 27, 2011.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed August 6, 2010. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on November 7, 2010. The Office mailed a Notice of Abandonment on May 26, 2011.

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

The application is being forwarded to Group Art Unit 2611 for consideration of the Amendment, filed June 27, 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

FOX ROTHSCHILD LLP
997 LENOX DRIVE
BUILDING 3
LAWRENCEVILLE, NJ 08648

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of	:	
KLAYMAN, Alan	:	
Application No. 11/771,012	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW
Attorney Docket No. **00001/00001**	:	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 September 02, 2010.

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 FOX ROTHSCHILD LLP has been revoked by the applicant of the patent application on August 05, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **ALAN KLAYMAN**
309 LYON CIRCLE
P. O. BOX 550
LAHASKA PA 18931-0550

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 29 2012
OFFICE OF PETITIONS

VIERRA MAGEN/SANDISK CORPORATION
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

In re Patent No. 7,927,990	:	
Issue Date: April 19, 2011	:	
Application No. 11/771,137	:	ON PETITION
Filed: June 29, 2007	:	
Attorney Docket No. SAND-01166US0	:	

This is a decision on the petition filed February 29, 2012, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES 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 :

Jeffrey Kay

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11771164

Filed : 29-Jun-2007

Attorney Docket No : MSFT-5938/320134.01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed September 1,2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2451 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11771164
Filing Date	29-Jun-2007
First Named Inventor	Jeffrey Kay
Art Unit	2451
Examiner Name	KAMAL DIVECHA
Attorney Docket Number	MSFT-5938/320134.01
Title	HIGH AVAILABILITY TRANSPORT

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

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

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

Petition Fee

- ☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).
- ☐ Applicant(s) status remains as SMALL ENTITY.
- ☒ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

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

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/John E. McGlynn/
Name	John E. McGlynn
Registration Number	42863

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 8, 2011

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/771191 Patent No.: 7999104 B2

CofC mailroom date: 12-08-11

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: _____

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: _____

/Janet L. Andres/ — **SPE**

1625 — **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

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

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of	:	
John Malcolm Macgregor	:	
Application No. 11/771,239	:	DECISION ON PETITION
Filed: June 29, 2007	:	TO WITHDRAW
Attorney Docket No. BOBJ-148/00US 304661-2293	:	FROM RECORD

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

The request is **NOT APPROVED**.

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

Petitioner should note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, since the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office, the request cannot be granted at the present time.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: BUSINESS OBJECTS AMERICAS; BUSINESS OBJECTS SA
SAP AMERICA, INC.; BUSINESS OBJECTS SOFTWARE, LTD
BUSINESS OBJECTS DATA INTEGRATION, INC.
777 6TH STREET, SUITE 1100, ATTN: B. GALLIANI
WASHINGTON, DC 20001

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/19/2011

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/771261 Patent No.: 7860175 B2

CofC mailroom date: 4/15/2011

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: The first change "Title page, item (63)" in Column 1, line 14, is disapproved because the original date of Jan. 27, 2003 is the correct filing date of the corresponding related application. All other changes are approved.

Thank you - /David Lugo/

Shuwang Liu — SPE

2611 — Art Unit

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,860,175 B2

APPLICATION NO.: 11/771,261

ISSUE DATE : December 28, 2010

INVENTOR(S) : Tzannes

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

/D.L./ ~~Title page, item (63), under "Related U.S. Application Data", in Column 1, Line 14, delete "Jan. 27, 2003," and insert - - Jan. 27, 2000, - -.~~

Title page, item (63), under "Related U.S. Application Data", in Column 1, Line 16, delete "Mar. 10, 2003," and insert - - Mar. 10, 2000, - -.

Page 3, item (56), under "Other Publications", in Column 1, Line 46, delete "XPOO6503444." and insert - - XP006503444. - -.

Page 3, item (56), under "Other Publications", in Column 2, Line 40, delete "Cap and Dmt"," and insert - - CAP and DMT", - -.

Page 3, item (56), under "Other Publications", in Column 2, Line 46, after "Action" insert - - for - -.

Column 1, line 14, delete "his" and insert - - is - -.

Column 1, line 18, delete "Mar. 10, 2003" and insert - - Mar. 10, 2000 - -.

Column 19, lines 51-52, in Claim 7, delete "non-data carrying DMT" and insert - - non-data-carrying DMT - -.

Column 20, line 13, in Claim 13, delete "non-data carrying DMT" and insert - - non-data-carrying DMT - -.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

_____
_____
_____
_____
_____

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

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

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,860,175 B2

APPLICATION NO.: 11/771,261

ISSUE DATE : December 28, 2010

INVENTOR(S) : Tzannes

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

Column 20, line 22, in Claim 15, delete "non-data carrying DMT" and insert - - non-data-carrying DMT - -.

Column 21, line 20, in Claim 31, delete "comprising" and insert - - comprising: - -.

Column 21, line 50, in Claim 37, delete "non-data carrying DMT" and insert - - non-data-carrying DMT - -.

Column 22, lines 59-60, in Claim 55, delete "non-data carrying DMT" and insert - - non-data-carrying DMT - -.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

_____
_____
_____
_____
_____

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 08/06/2010

Applicant	: Thomas Cartwright	: DECISION ON REQUEST FOR
Patent Number	: 7654911	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/771,353	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **24** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 11292D1

DATE : 11-15-10

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 11771537 Patent No.: 7701758

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: ap 11/29/10

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

11/29/10 — **SPE** — 2824 **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

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

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Application of
Mary JENKINS
Application No. 11/771,670
Filed: June 29, 2007
Attorney Docket No. **4003646-160298**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 7, 2011.

The request is **APPROVED**.

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

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

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

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

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

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

cc: **MARY JENKINS**
35 E. GAY STREET, SUITE 500-B
COLUMBUS, OH 43215

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-29097

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Kirk E. Cemper	:	
Application No. 11/771,684	:	DECISION ON PETITION
Filed: June 29, 2007	:	
Attorney Docket No. **20070131**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 7, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 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 January 8, 2011.

The petition is hereby **GRANTED**.

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

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

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bose Corporation
c/o Donna Griffiths
The Mountain, MS 40
IP Legal - Patent Support
Framingham, MA 01701

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Roman LITOVSKY, et *al.* :
Application No. 11/771,785 :
Filed: June 29, 2007 :
Attorney Docket No. **S48-US1** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed August 26, 2010. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 27, 2010.

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

The drawings have been entered and made of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

Patent No. 7,744,856	:	
Issue Date: June 29, 2010	:	
Application No. 11/771,843	:	ON PETITION
Filed: June 29, 2007	:	
Attorney Docket No. 006957.00003	:	

This is a decision on the petition filed July 15, 2010 and subsequently filed on August 10, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

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 may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Robert H. Resis
Banner & Witcoff, Ltd.
1100 13th Street, NW
Suite 1200
Washington, DC 20005-4051

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 7,744,856	)	Serial No. 11/771,843
	)	
Inventors: Louis J. DEFLILPPI et al.	)	Filed: June 29, 2007
	)	
Issue Date: June 29, 2010	)	Attorney Docket No. 006957.00003

For: FORMULATIONS WITH FERULOYL GLYCERIDES AND METHODS OF PREPARATION

Petition for Correction of Assignee Information Under 37 C.F.R. 3.81(b)

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Applicant petitions under 37 C.F.R. 3.81(b) for correction of the assignee information as printed on the issued patent. PTO Form 1050 is submitted herewith, as is requested to be used with this submission.

The application was assigned from ISOY TECHNOLOGIES to:

BIOTECHNOLOGY RESEARCH AND DEVELOPMENT CORPORATION

as recorded at Reel/Frames 024553/0930 on June 17, 2010 (copy attached).

The error originated with a misspelling of "Biotechnology" on the Issue Fee Transmittal Form (PTOL-85) of March 29, 2010. This error was made without deceptive intent.

Issuance of the Certificate of Correction containing the corrections is respectfully requested.

The Patent and Trademark Office is authorized to charge our Deposit Account No. 19-0733 for $130 for this petition and any other related fees.

Respectfully submitted,
BANNER & WITCOFF, LTD.

1100 13th Street, N.W.
Suite 1200
Washington, D.C. 20005-4051

By: /Robert H. Resis/
Robert H. Resis
Reg. No. 32,168

Dated: July 14, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Facsimile Transmission

To:	**Name:**	BANNER & WITCOFF, LTD.
	Company:	TEN SOUTH WACKER DRIVE
	Fax Number:	13124635001
	Voice Phone:	
From:	**Name:**	ASSIGNMENT SERVICES BRANCH
	Voice Phone:	571-272-3350

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

Pg#	Description
1	Cover Page
2	823.TXT
4	Document 1, Batch 2078163

USPTO ASSIGNMENT SYSTEM PROCESSING

Date and time of transmission: Tuesday, June 22, 2010 8:32:54 PM
Number of pages including this cover sheet: 05

BANNER & WITCOFF, LTD. COMPANY:TEN SOUTH WACKER DRIVE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

501207991A

JUNE 17, 2010

PTAS

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 06/17/2010 REEL/FRAME: 024553/0930
NUMBER OF PAGES: 5

BRIEF: CORRECTIVE ASSIGNMENT TO CORRECT THE ASSIGNEE IN ORIGINAL ASSIGNMENT PREVIOUSLY RECORDED ON REEL 022998 FRAME 0234. ASSIGNOR(S) HEREBY CONFIRMS THE NUNC PRO TUNC ASSIGNMENT WITH EFFECTIVE DATE OF 06/29/2007.
DOCKET NUMBER: 006957.00003

ASSIGNOR:
ISOY TECHNOLOGIES DOC DATE: 06/24/2009

ASSIGNEE:
BIOTECHNOLOGY RESEARCH AND
DEVELOPMENT CORPORATION
1815 N. UNIVERSITY AVENUE
PEORIA, ILLINOIS 61604

SERIAL NUMBER: 11771843 FILING DATE: 06/29/2007
PATENT NUMBER: 7744856 ISSUE DATE: 06/29/2010
TITLE: FORMULATIONS WITH FERULOYL GLYCERIDES AND METHODS OF PREPARATION

PAULA MCCRAY-STANLEY, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

BANNER & WITCOFF, LTD. COMPANY:TEN SOUTH WACKER DRIVE

PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

06/17/2010
501207991

SUBMISSION TYPE:	CORRECTIVE ASSIGNMENT
NATURE OF CONVEYANCE:	Corrective Assignment to correct the assignee in original assignment previously recorded on Reel 022998 Frame 0234. Assignor(s) hereby confirms the Nunc Pro Tunc Assignment with effective date of 06/29/2007.

CONVEYING PARTY DATA

Name	Execution Date
iSoy Technologies	06/24/2009

RECEIVING PARTY DATA

Name:	Biotechnology Research and Development Corporation
Street Address:	1815 N. University Avenue
City:	Peoria
State/Country:	ILLINOIS
Postal Code:	61604

PROPERTY NUMBERS Total: 1

Property Type	Number
Application Number:	11771843

CORRESPONDENCE DATA

Fax Number: (312)463-5001
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
Phone: 312-463-5000
Email: aonoda@bannerwitcoff.com
Correspondent Name: Banner & Witcoff, Ltd.
Address Line 1: Ten South Wacker Drive
Address Line 2: Suite 3000
Address Line 4: Chicago, ILLINOIS 60606

ATTORNEY DOCKET NUMBER:	006957.00003
NAME OF SUBMITTER:	Robert H. Resis

Total Attachments: 3
source=CorrectedAssignment3#page1.tif
source=CorrectedAssignment3#page2.tif

CH $40.00 11771843

BANNER & WITCOFF, LTD. COMPANY:TEN SOUTH WACKER DRIVE

source=CorrectedAssignment3#page3.tif

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,744,856

DATED: June 29, 2010

INVENTOR(S): Louis J. DEFILIPPI, et al.

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

In Cover Page, under Assignee:
Please replace "Biotech" with --Biotechnology--.

Mailing Address of Sender:

Banner & Witcoff, Ltd.
1100 13th Street, N.W., Suite 1200
Washington, DC 20005-4051

U.S. PAT. NO
7,744,856
No. of add'l copies
@ $0.50 per page

FORM PTO 1050 (Rev.2-93)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 01 2011

OFFICE OF PETITIONS

TYCO HEALTHCARE GROUP LP
15 HAMPSHIRE STREET
MANSFIELD MA 02048

In re Application of	:	
Richard S. Kusleika et al	:	
Application No. 11/771,890	:	DECISION GRANTING PETITION
Filed: June 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. EV3.108A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 30, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 18, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3738 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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	11771913
Filing Date	29-Jun-2007
First Named Inventor	Zhongmin Song
Art Unit	2123
Examiner Name	EUNHEE KIM
Attorney Docket Number	14.0346-US
Title	SEISMIC INVERSION OF DATA CONTAINING SURFACE-RELATED MULTIPLES

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	/Dan C. Hu/
Name	Dan C. Hu
Registration Number	40025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : May 13,2011

In re Application of :

Zhongmin Song

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11771913

Filed : 29-Jun-2007

Attorney Docket No : 14.0346-US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 13,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid 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 2123 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE AZ 85255-9603

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of	:	
Gavin et al.	:	
Application No. 11/771,956	:	DECISION ON PETITION
Filed: June 29, 2007	:	
Attorney Docket No. 101.00376	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 8, 2011, as required by the Notice of Allowance and Fee(s) Due mailed December 8, 2010. Accordingly, the date of abandonment of this application is March 9, 2011. A Notice of Abandonment was mailed March 24, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00, (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 Publishing Division for processing into a patent.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08-09-11

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/771958 Patent No.: 7919628

CofC mailroom date: 08-26-11

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

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 /Joseph K. McKane/ **Art Unit** 1626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110912

DATE : September 12, 2011

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,919,628

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:

/Joseph K. McKane/
Supervisory Patent Examiner, Art Unit 1626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110912

DATE : September 12, 2011

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,919,628

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:

/Joseph K. McKane/
Supervisory Patent Examiner, Art Unit 1626

UNITED STATES 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 23 2010

OFFICE OF PETITIONS

W. EDWARD RAMAGE
COMMERCE CENTER SUITE 1000
211 COMMERCE ST
NASHVILLE, TN 37201

In re Application of	:	
Danny McCall	:	
Application No. 11/772,026	:	DECISION ON PETITION
Filed: June 29, 2007	:	
Attorney Docket No. 2902207.000002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 28, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 28, 2010. Accordingly, the application became abandoned on July 29, 2010.

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

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
SINGH, Inderjeet
Application No. 11/772,038
Filed: June 29, 2007
Attorney Docket No. **61792-8001.US01**

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 03, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that acts (1) and (2) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 05, 2010.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **INDERJEET SIGN**
4227 MACKIN WOODS LANE
SAN JOSE CA 95135

UNITED STATES 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 14 2011
OFFICE OF PETITIONS

JHK LAW
P.O. BOX 1078
LA CANADA CA 91012-1078

In re Application of	:	
Yoon et al.	:	
Application No. 11/772,048	:	DECISION ON PETITIONS
Filed: 06/29/2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 59520-00015	:	

This is a decision on the petition filed on August 26, 2011, which is treated as petitions under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed the prior-filed PCT application, as set forth in the concurrently filed amendment.

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed nonprovisional and PCT applications under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is forwarded to Technology Center Art Unit 1636 for 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 application.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/772,048	06/29/2007	1636	2740	59520-00015	19	9

CONFIRMATION NO. 8939

CORRECTED FILING RECEIPT

35736
JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

OC000000049783986

Date Mailed: 09/14/2011

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)

Jeong Ho Yoon, Seoul, KOREA, REPUBLIC OF;
Se Nyun Kim, Seoul, KOREA, REPUBLIC OF;
Young-Hwa Song, Paju-si, KOREA, REPUBLIC OF;
Dong Yoon Park, Seoul, KOREA, REPUBLIC OF;
Sung Han Kim, Bucheon-si, KOREA, REPUBLIC OF;
InKyung Shin, Yongin-si, KOREA, REPUBLIC OF;
Yeo Wook Koh, Seongnam-si, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

DIGITAL GENOMICS INC., Seoul, KOREA, REPUBLIC OF
DAEWOONG CO., LTD., Sungnam-si, KOREA, REPUBLIC OF

Power of Attorney:
Hyo Kim--41425

Domestic Priority data as claimed by applicant

This application is a CON of PCT/KR05/04630 12/29/2005

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 10-2004-0115526 12/29/2004

If Required, Foreign Filing License Granted: 08/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/772,048**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

MARKERS FOR THE DIAGNOSIS OF AML, B-ALL AND T-ALL

Preliminary Class

506

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAFAEL RALPH PAGAN
146 - 28 24TH AVENUE
WHITESTONE NY 11357

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Rafael Ralph Pagan	:	
Application No. 11/772,094	:	DECISION ON PETITION
Filed: June 29, 2007	:	
Title: "GOT CHA"	:	

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

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, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 24, 2010. A Notice of Abandonment was mailed September 14, 2010.

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

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.

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

This application is being referred to Technology Center AU 1651 for further appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kraig L. Haverstick
118 N. Tioga St., Suite 400
Ithaca, NY 14850

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 4, 2011

TO SPE OF : ART UNIT 2112 SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/772,295 Patent No.: 7,975,199 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 Related U.S. Application Data be amended as requested by applicant?
See COCIN dated 9-13-2011

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.

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

Comments: The request for correction is an update of the cross reference of the related documents section in the specification. This request has no impact on the allowed claims.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/SWR/ 10/5/2011

SPE Art Unit 2112

SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA MOBILITY, INC.
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
TORRES	:	
Application No. 11/772,317	:	DECISION ON PETITION
Filed: July 2, 2007	:	
Docket No. CE1631T	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 6, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 7, 2011.

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.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 15 2011

OFFICE OF PETITIONS

BiPar Sciences Inc. c/o Morrison & Foerster LLP
755 Page Mill Road
Palo Alto CA 94304

In re Patent No. 8,030,487
Issued: October 4, 2011
Application No. 11/772,572
Filed: July 2, 2007
Dkt. No.: 686472001100

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

This is a decision on the petition filed December 2, 2011 requesting that the patent term adjustment be increased from 964 days to 1,011 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The patent is entitled to an overall adjustment of 1,010 days.

The above-identified application issued as U.S. Pat. No. 8,030,487 on October 4, 2011. The patent issued with a patent term adjustment of 964 days. The instant request for reconsideration of patent term adjustment was timely filed December 2, 2011. Patentees contest the reduction of 49 days assessed in connection with the request for corrected filing receipt filed August 17, 2011. In this regard, patentee asserts that the correct reduction is either zero, predicated on the grounds that submission of a request for corrected filing receipt is not a failure to engage in reasonable efforts to conclude prosecution (or processing), or two days, predicated on the grounds that a corrected filing receipt was mailed August 19, 2011.

Patentee's arguments have been carefully considered and found in part persuasive. The submission of a request for corrected filing receipt is deemed a failure to engage in reasonable efforts to conclude prosecution (or processing). In view thereof, the correct period of reduction is three days, the reduction commenced August 17, 2011, the date that the request for corrected filing receipt was filed, and ended August 19, 2011, the date that a reply in response thereto was mailed. See, 37 CFR 1.704(c)(10).

In view thereof, the patent is entitled to an overall adjustment of 1,010 days (1,106 days of adjustment pursuant to 37 CFR 1.703 *less* 96 days of applicant day pursuant to 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an

opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The required $200.00 fee set forth in 37 CFR 1.18(e) has been charged to the authorized deposit account. No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,010 days.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,030,487

DATED : October 4, 2011 **DRAFT**

INVENTOR(S) : Noronha, 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 964 days

Delete the phrase "by 964 days" and insert -- by 1,010 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

Novak Druce + Quigg LLP
CityPlace Tower, 525 Okeechobee Blvd.
Fifteenth-Floor
WEST PALM BEACH FL 33401

In re Application of :
OLIVE, JOSE ANTONIO :
Application No.: 11/772586 : DECISION ON
Filing or 371(c) Date: July 2, 2007 : PETITION
Attorney Docket Number: **BOC9-2007-0045US1 (585)**

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR 1.81 (a), received in the United States Patent and Trademark Office (USPTO) November 3, 2010.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit the Issue Fee and Publication Fee as required by the Notice of Allowance, mailed June 3, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on September 20, 2010.

Petitioner states that the issue fee and publication fee were timely submitted. As evidence, petitioner submitted a copy of the previously filed correspondence which included a completed Certificate of Mailing and a statement which attests to the previous mailing.

In view of the above, the holding of abandonment is hereby withdrawn and the application has been restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1499.

Kendrick Sprull
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.

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

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Rosen et al.	:	DECISION ON APPLICATION
Application No. 11/772,591	:	FOR
Filed: 07/02/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
06832.0064-02000	:	

This letter is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT filed on April 20, 2011, which is treated as a petition under 37 CFR 1.705(b) requesting that the initial determination of patent term adjustment be increased from 0 days to 10 days.

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

The Office has updated the PALM and PAIR screens to reflect that the revised Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ten (10) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On January 24, 2011, the Office mailed the initial Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero (0) days (146 days of Office delay reduced by 380 days of applicant delay).

On April 20, 2011, applicants timely submitted the instant application for patent term adjustment.[1]

[1] PALM records show that the Issue Fee was received on April 20, 2011.

Applicants request reconsideration of the patent term adjustment in connection with the reply to the Notice to File Corrected Application Papers filed on July 7, 2008. Specifically, applicants state that the reply filed on July 7, 2008, was filed lesss than three months after the date the Notice to File Corrected Application Papers was mailed, May 6, 2008.

Upon review, applicants are correct. On August 6, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed. On September 27, 2007, a reply was filed. On May 6, 2008, a Withdrawal of Previously Sent Notice was mailed, stating the Notice mailed on August 6, 2007, was sent in error and is hereby withdrawn. A new Notice was mailed on May 6, 2008. On July 7, 2008, a response was filed, less than three months after the date the corrected Notice was mailed. Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of 0 days, rather than 146 days for applicant delay is warranted.

In view thereof, the revised determination of PTA at the time of the mailing of the Notice of Allowance is **ten (10)** days (146 days of PTO delay, reduced by 136 (77 + 59) days of Applicant delay).

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

11/772,591 ALBUMIN FUSION PROTEINS 06-02-2011::11:35:25

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/772,591

Filing or 371(c) Date:	07-02-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	146
A Delays:	146	PTO Manual Adjustments:	244
B Delays:	0	Applicant Delays:	380
C Delays:	0	Total PTA Adjustments:	10

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
103	06-02-2011	Adjustment of PTA Calculation by PTO	244		0
95	01-24-2011	Mail Notice of Allowance			0
94	01-21-2011	Issue Revision Completed			0
93	01-21-2011	Document Verification			0
92	01-21-2011	Notice of Allowance Data Verification Completed			0
91	01-21-2011	Allowability Notice			0
90	12-27-2010	Finished Initial Data Capture			0
89	12-22-2010	Date Forwarded to Examiner			0
88	12-16-2010	Amendment Submitted/Entered with Filing of CPA/RCE			0
87	12-16-2010	Request for Continued Examination (RCE)			0
86	12-22-2010	Disposal for a RCE / CPA / R129			0
85	12-16-2010	Workflow - Request for RCE - Begin			0
78	10-12-2010	Sequence Forwarded to Pubs on Tape			0
77	09-22-2010	Export to Initial Data Capture			0
76	09-17-2010	Mail Notice of Allowance			0
75	09-09-2010	Issue Revision Completed			0
74	09-09-2010	Document Verification			0
73	09-08-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
72	09-08-2010	Notice of Allowance Data Verification Completed			0
71	09-08-2010	Case Docketed to Examiner in GAU			0
70	09-08-2010	Allowability Notice			0
68	07-19-2010	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
67	07-19-2010	Oath or Declaration Filed (Including Supplemental)			0
66	07-22-2010	Date Forwarded to Examiner			0
65	07-19-2010	Response after Ex Parte Quayle Action			0
64	05-19-2010	Mail Ex Parte Quayle Action (PTOL - 326)			0
63	05-19-2010	Quayle action			0
62	04-16-2010	Information Disclosure Statement considered			0
61	04-16-2010	Reference capture on IDS			0
60	04-16-2010	Information Disclosure Statement (IDS) Filed			0
59	04-19-2010	Date Forwarded to Examiner			0
58	04-16-2010	Amendment Submitted/Entered with Filing of CPA/RCE			0
57	04-16-2010	Request for Continued Examination (RCE)		59	48
56	04-19-2010	Disposal for a RCE / CPA / R129			0
55	04-16-2010	Request for Extension of Time - Granted			0
54	04-16-2010	Information Disclosure Statement (IDS) Filed			0
53	04-16-2010	Workflow - Request for RCE - Begin			0
52	03-19-2010	Mail Examiner Interview Summary (PTOL - 413)			0
51	03-19-2010	Mail Examiner Interview Summary (PTOL - 413)			0
50	03-15-2010	Examiner Interview Summary Record (PTOL - 413)			0
49	03-15-2010	Examiner Interview Summary Record (PTOL - 413)			0

48	11-16-2009	Mail Final Rejection (PTOL - 326)			0
47	11-09-2009	Final Rejection			0
46	10-05-2009	Date Forwarded to Examiner			0
45	09-18-2009	Response after Non-Final Action		77	42
44	09-18-2009	Request for Extension of Time - Granted			0
43	04-07-2009	Mail Examiner Interview Summary (PTOL - 413)			0
42	04-03-2009	Mail Non-Final Rejection			0
41	03-27-2009	Examiner Interview Summary Record (PTOL - 413)			0
40	04-02-2009	Non-Final Rejection			0
39	07-02-2007	Information Disclosure Statement considered			0
34	03-12-2009	Date Forwarded to Examiner			0
33	02-26-2009	Response to Election / Restriction Filed			0
32	01-26-2009	Mail Restriction Requirement	146		0.5
31	01-21-2009	Restriction/Election Requirement			0
30	11-28-2008	PG-Pub Issue Notification			0
29	11-14-2008	Case Docketed to Examiner in GAU			0
27	10-14-2008	IFW TSS Processing by Tech Center Complete			0
26	07-02-2007	Information Disclosure Statement (IDS) Filed			0
25	07-02-2007	Preliminary Amendment			0
24	07-22-2008	Application Dispatched from OIPE			0
23	07-16-2008	Sent to Classification Contractor			0
22	07-16-2008	Filing Receipt - Updated			0
21	07-16-2008	Application Is Now Complete			0
20	07-15-2008	Correspondence Address Change			0
19	07-07-2008	Additional Application Filing Fees		244	8
18	07-07-2008	Applicant has submitted a new specification to correct Corrected Papers problems			0
17	05-06-2008	Corrected Paper			0
16	05-06-2008	Filing Receipt			0
15	09-27-2007	Payment of additional filing fee/Preexam			0
14	08-06-2007	Pre-Exam Office Action Withdrawn			0
12	07-02-2007	Claim Preliminary Amendment			0
11	07-02-2007	A document that contains, at least in part, a written description of an invention, and of the manne			0
8	08-06-2007	Notice Mailed--Application Incomplete--Filing Date Assigned			0
6	07-02-2007	CRF Disk Has Been Received by Preexam / Group / PCT			0
5	07-24-2007	CRF Is Good Technically / Entered into Database			0
4	07-11-2007	Cleared by OIPE CSR			0
3	07-02-2007	Information Disclosure Statement (IDS) Filed			0
2	07-03-2007	IFW Scan & PACR Auto Security Review			0
1	07-02-2007	Initial Exam Team nn			0
0.5	07-02-2007	Filing date			0

Close Window

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Patent No. 7,977,306	:
Rosen et al.	: DECISION ON REQUEST FOR
Application No. 11/772,591	: RECONSIDERATION OF
Issue Date: 07/12/2011	: PATENT TERM ADJUSTMENT
Filing Date: 07/02/2007	:
Attorney Docket No.	:
06832.0064-02000	:

This is a decision on the petition filed on September 8, 2011, under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be revised to indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-two (192) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of zero (0) days.

Patentee asserts that the "B" delay period should be 182 days rather than 0 days as calculated by the Office. Specifically, patentee states:

> Applicants submit that the time period of **169 days** between the Notice of Allowance mailed on January 24, 2011, and the issuance of the '306 patent on July 12, 2011, is not "time consumed by **continued examination** of the application requested by the applicant under section 132(b)," as recited in 35 U.S.C. § 154(b)(1)(B)(i) (emphasis added), because during this time period the PTO did not examine the application.

Thus, this time period should not be excluded from the calculation of any "B Delay" under 35 U.S.C. § 154(b)(1)(B) (see below).

The time period from the actual filing date of the application to the filing date of the first RCE is **1019 days** (or 2 years, 9 months, and 14 days). The time period between the first Notice of Allowance and the filing of the second RCE is **90 days** (see above). The time period between the second Notice of Allowance and the issuance of the patent is **169 days** (see above). Adding up these time periods results in a total period of **1278 days**, or a period of **3 years (including 1 leap year) and 182 days**. Thus, the issue of the original patent was delayed due to the failure of the PTO to issue a patent within 3 years after the actual filing date of the application in the United States, not including any time that should be excluded under 35 U.S.C. § 154(b)(1)(B)(i)-(iii), such as the time consumed by continued examination of the application requested by Applicants under section 132(b).

(emphasis in original)

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 July 2, 2007 and the patent not having issued as of the day after the three year date, July 3, 2010, and a request for continued examination under 132(b) having been filed on April 16, 2010. In other words, the period beginning on the date of mailing of the notice of allowance mailed on September 17, 2010 to the date of filing of the request for continued examination filed on December 16, 2010, and the period beginning on the date of mailing of the notice of allowance mailed on January 24, 2011 to the date of issuance of the patent were considered time consumed by continued examination of an

application under 35 U.S.C. 132(b) and were 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) . 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*, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii) . Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by"

refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

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

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. *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 April 16, 2010, and the patent issued by virtue of that request on July 12, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 16, 2010 and ending on July 12, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 0 days indicated on the patent is correct.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Patent No. 7,977,306	:
Rosen et al.	: DECISION ON REQUEST FOR
Application No. 11/772,591	: RECONSIDERATION OF
Issue Date: 07/12/2011	: PATENT TERM ADJUSTMENT
Filing Date: 07/02/2007	:
Attorney Docket No.	:
06832.0064-02000	:

This is a corrected decision on the petition filed on September 8, 2011, under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be revised to indicate that the term of the above-identified patent is extended or adjusted by one hundred ninety-two (192) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of ten (10) days.[1]

Patentee asserts that the "B" delay period should be 182 days rather than 0 days as calculated by the Office. Specifically, patentee states:

> Applicants submit that the time period of **169 days** between the Notice of Allowance mailed on January 24, 2011, and the issuance of the '306 patent on July 12, 2011, is not "time consumed by **continued examination**

[1] The period for reply continues to run from the mailing date of the decision mailed on September 19, 2011. This corrected decision does **not** reset the period for reply. See 37 CFR 1.705(d) and 1.181(f).

of the application requested by the applicant under section 132(b)," as recited in 35 U.S.C. § 154(b)(1)(B)(i) (emphasis added), because during this time period the PTO did not examine the application. Thus, this time period should not be excluded from the calculation of any "B Delay" under 35 U.S.C. § 154(b)(1)(B) (see below).

The time period from the actual filing date of the application to the filing date of the first RCE is **1019 days** (or 2 years, 9 months, and 14 days). The time period between the first Notice of Allowance and the filing of the second RCE is **90 days** (see above). The time period between the second Notice of Allowance and the issuance of the patent is **169 days** (see above). Adding up these time periods results in a total period of **1278 days**, or a period of **3 years (including 1 leap year) and 182 days**. Thus, the issue of the original patent was delayed due to the failure of the PTO to issue a patent within 3 years after the actual filing date of the application in the United States, not including any time that should be excluded under 35 U.S.C. § 154(b)(1)(B)(i)-(iii), such as the time consumed by continued examination of the application requested by Applicants under section 132(b).

(emphasis in original)

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 July 2, 2007 and the patent not having issued as of the day after the three year date, July 3, 2010, and a request for continued examination under 132(b) having been filed on April 16, 2010. In other words, the period beginning on the date of mailing of the notice of allowance mailed on September 17, 2010 to the date of filing of the request for continued examination filed on December 16, 2010, and the period beginning

on the date of mailing of the notice of allowance mailed on January 24, 2011 to the date of issuance of the patent were considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and were 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) . 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*, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii) . Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days

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

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

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

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. *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 April 16, 2010, and the patent issued by virtue of that request on July 12, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 16, 2010 and ending on July 12, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 10 days indicated on the patent is correct.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

MAILED

JUL 11 2011

OFFICE OF PETITIONS

In re Application of :
William E. Phillips III, et al. :
Application No.: 11/772,609 : ON PETITION
Filed: July 7, 2011 :
Attorney Docket No.: 62366US006 :

This is a decision on the petition, filed July 7, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 2, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2878 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 27 2011

OFFICE OF PETITIONS

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

In re Application of	:	
Conrad J. Simon et al	:	
Application No. 11/772,619	:	DECISION ON PETITION
Filed: July 02, 2007	:	
Attorney Docket No. **20305.0007US01**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103

(October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

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

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

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

Ramesh Krishmurthy
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

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application of	:	
CONRAD J. SIMON III. et al.	:	
Application No. 11/772,619	:	DECISION ON PETITION
Filed: July 02, 2007	:	
Attorney Docket No. **20305.0007US01**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 non-final Office action mailed, July 22, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office action of July 22, 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 1773 for appropriate action on the concurrently.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WONG, CABELLO, LUTSCH, RUTHERFORD
& BRUCCULERI, L.L.P.
20333 SH 249 6TH FLOOR
HOUSTON, TX 77070

MAILED
APR 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Timothy M. HOLLIS	:	
Application No. 11/772,642	:	DECISION ON PETITION
Filed: July 2, 2007	:	
Attorney Docket No. 872-0270US	:	

This is a decision on the petition under 37 CFR 1.59(b), filed December 22, 2010, to expunge information from the above identified application. The petition will be considered under 37 CFR 1.182 as having proper status identifiers.

The petition is **GRANTED**.

Petitioner, in substance, requests that 2 documents included in EFS ID 9089340, filed December 22, 2010, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee of $400.00set forth in 37 CFR 1.17(f) will be charged to petitioner's Deposit Account 50-1922.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 11/772,642 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/10/11

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11772643 Patent No.: 7799759

CofC mailroom date: 2/23/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9999

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: _____

_____

/Manjunath Rao/ — SPE

1656 — Art Unit

PAGE 2/2 * RCVD AT 3/21/2011 9:15:53 AM [Eastern Daylight Time] * SVR:W-PTOFAX-001/48 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-00

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,799,759	:	
Issue Date: September 21, 2010	:	
Application No. 11/772,643	:	ON PETITION
Filed: July 2, 2007	:	
Attorney Docket No. 06832.0062-06000	:	

This is in response to the RENEWED REQUEST FOR CERTIFICATE OF CORRECTION TO CORRECT ASSIGNEE'S NAME filed April 15, 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**.

By decision mailed March 21, 2011, a prior REQUEST FOR A CERTIFICATE OF CORRECTION was dismissed in part. (*See* Certificate of Correction issued April 12, 2011). The request included a Request for Certificate of Correction Under 37 CFR 1.323, a draft Certificate of Correction, the fee set forth in 37 CFR 1.20(a) for issuance of a certificate of correction and an authorization to charge any other required fees.

On April 15, 2011, petitioner submitted their request to the Office of Petitions for decision. A review of the record reveals that "Delta Biotechnology Limited, Nottingham (GB)" and "Human Genome Sciences, Inc., Rockville, MD (US)" were named as the assignees on the form PTOL-85B. Petitioner requests that the above-identified patent be corrected to delete "Delta Biotechnology Limited" as an assignee and requests that a Certificate of Correction be issued identifying this assignee.

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Petitioner explains that the deletion is necessary pursuant to a deletion of inventors. Both petitioner's evidence and Office records show that the assignment of the above-identified application to "Human Genome Sciences, Inc., Rockville, MD" was submitted for recording in the Office on April 26, 2005 in the parent application. A review of the assignment reveals its application to this continuation. This recordation occurred before payment of the issue fee on August 16, 2010 and before issuance of the patent (Reel/Frame 016494/0459) on September 21, 2010.

Receipt of the required $100 certificate of correction fee on February 23, 2011 is acknowledged. The required $130 processing fee is being charged to the Deposit Account, as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,991,185 B2

APPLICATION NO.: 11/772,671

ISSUE DATE : August 2, 2011

INVENTOR(S) : Shi et al.

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

Title page, item (56), under "Other Publications", in Column 2, Line 6, delete "Highter" and insert - - Higher - -.

Title page, item (56), under "Other Publications", in Column 2, Line 9, delete "Context-Bassed," and insert - - Context-Based, - -.

Title page, item (56), under "Other Publications", in Column 2, Lines 13-15, delete ""Videre: Journal of Computer Vision Research" by Peter Kovesi, Quarterly Journal, Summer 1999, vol. 1, No. 3, Teh MIT Press." and insert the same on Title page, Col. 2, line 14, as a new entry.

Column 1, line 7, below "Title" insert - - CROSS-REFERENCE TO RELATED APPLICATION - -.

Column 13, lines 64-65, in Claim 7, delete " $K(\vec{x}_i,\vec{x}_j)=\exp\left(-\gamma\|\vec{x}_i-\vec{x}_j\|^2\right),\gamma>0$ " and

Insert - - $K(\vec{x}_i,\vec{x}_j)=\exp\left(-\gamma\|\vec{x}_i-\vec{x}_j\|^2\right),\gamma>0,$ - -.

Column 16, lines 17-18, in Claim 18, delete " $K(\vec{x}_i,\vec{x}_j)=\exp\left(-\gamma\|\vec{x}_i-\vec{x}_j\|^2\right),\gamma>0$ " and

insert - - $K(\vec{x}_i,\vec{x}_j)=\exp\left(-\gamma\|\vec{x}_i-\vec{x}_j\|^2\right),\gamma>0,$ - -.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,

U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,991,185 B2

APPLICATION NO.: 11/772,671

ISSUE DATE : August 2, 2011

INVENTOR(S) : Shi et al.

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

Column 17, line 18, in Claim 25, delete "and;" and insert - - and - -.

Column 18, lines 7-10, in Claim 26, delete " $\min_{\vec{w}b,\alpha_i} \frac{1}{2}\vec{w}^T\vec{w} + C\sum_{i=1}^{m}\alpha_i$ subject to $y_i\left(\vec{w}^T\phi(\vec{x}_i)+b\right) \geq 1-\alpha_i, \alpha_i \geq 0,$ " and

insert - - $\min_{\vec{w},b,\alpha_i} \frac{1}{2}\vec{w}^T\vec{w} + C\sum_{i=1}^{m}\alpha_i$ subject to $y_i\left(\vec{w}^T\phi(\vec{x}_i)+b\right) \geq 1-\alpha_i; \alpha_i \geq 0,$ - -.

Column 18, lines 18-19, in Claim 27, delete " $K(\vec{x}_i,\vec{x}_j) = \exp\left(-\gamma\left\|\vec{x}_i-\vec{x}_j\right\|^2\right), \gamma > 0$ " and

insert - - $K(\vec{x}_i,\vec{x}_j) = \exp\left(-\gamma\left\|\vec{x}_i-\vec{x}_j\right\|^2\right), \gamma > 0,$ - -.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

_____

_____

_____

_____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Matheson Keys Garsson & Kordzik PLLC
7004 Bee Cave Rd.
Bldg. 1, Suite 110
Austin TX 78746

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Fink et al.	:	
Patent Number: 7,960,718	:	DECISION ON
Issue Date: 06/14/2011	:	PETITION REGARDING
Application No. 11/772711	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/02/2007	:	
Attorney Docket Number: 21545-169001	:	

This is a decision on the petition filed on June 30, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred thirty-eight (738) 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 thirty-eight (738) days is **DISMISSED**.

As to the period of time excluded from B delay for appellate review, Patentee's argument has also been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 147 days, beginning on October 19, 2010, the date of filing of the notice of appeal, and ending on March 14, 2011, the date of mailing of the Notice of Allowance.

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

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

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Matheson Keys Garsson & Kordzik PLLC
7004 Bee Cave Rd.
Bldg. 1, Suite 110
Austin TX 78746

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Fink et al.	:	
Patent Number: 7,960,718	:	DECISION ON RENEWED
Issue Date: 06/14/2011	:	PETITION REGARDING
Application No. 11/772711	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/02/2007	:	
Attorney Docket Number: 21545-169001	:	

This is a decision on the renewed petition filed on August 23, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred thirty-eight (738) days.

The renewed 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 thirty-eight (738) days is **DISMISSED AS PREMATURE**.

In a decision on petition, mailed July 29, 2011, the Office 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 were 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 present renewed petition requests reconsideration of the decision on petition based upon the Notice of Proposed Rulemaking, published April 6, 2011. However, it is reiterated that to the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110429

DATE : April 29, 2011

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction on Patent No.: 7,879,573

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:

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

UNITED STATES 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 04 2011

OFFICE OF PETITIONS

CALIPER LIFE SCIENCES, INC.
C/O CARDINAL LAW GROUP, LTD
1603 ORRINTON AVE STE 2000
EVANSTON, IL 60201-5543

In re Application of
Dean G. Hafeman, et al.
Application No. 11/772,744
Filed: July 2, 2007
Attorney Docket No.: 100/16602

ON PETITION

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

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fee and publication fee on or before November 29, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 27, 2010. On December 1, 2010, the present petition was filed. A Notice of Abandonment was subsequently mailed on December 27, 2010.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Ann C. Petersen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

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

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

Telephone 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

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

DETAILED ACTION

Certificate of Correction

The Certificate of Correction dated 8/6/2010 has been reviewed and approved by the Examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Said Broome whose telephone number is (571)272-2931. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571)272-7794. 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.

/Said Broome/
Primary Examiner, Art Unit 2628

/James A Thompson/
Supervisory Patent Examiner, Art Unit 2628

Please Enter these Corrections
/SB/
4/2/12

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,737,967

APPLICATION NO.: 11/772,775

ISSUE DATE : 15 June 2010

INVENTOR(S) : Dimitry Alexandrovich Chernichenko et al.

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

- In column 5, line 45 (approximately), delete "VP1," and insert --VP1--, therefor, making all instances of the number 1 a subscript.
- In column 6, line 41 (approximately), delete "VP1," and insert --VP1--, therefor, making all instances of the number 1 a subscript.
- In column 7, line 54 (approximately), delete "VP1," and insert --VP1--, therefor, making all instances of the number 1 a subscript.
- In column 7, line 59 (approximately), delete "VP1," and insert --VP1--, therefor, making all instances of the number 1 a subscript.
- In column 8, line 24 (approximately), delete "Wand" and insert --W and--, therefor.
- In column 8, line 30 (approximately), delete "VP1," and insert --VP1--, therefor, making all instances of the number 1 a subscript.
- In column 9, line 8, delete"VP1," and insert --VP1--, therefor, making all instances of the number 1 a subscript.
- In column 16, line 29 (approximately) of Claim 13, delete "of" and insert --of the --, therefor.
- In column 8, line 49, make the number 2 in "VP2" a subscript.
- In column 8, line 51, make the number 2 in "VP2" a subscript.
- In column 8, line 53, make the number 2 in "VP2" a subscript.
- In column 8, line 60, make the number 1 in "VP1" a subscript.
- In column 8, line 63, make the number 1 in "VP1" a subscript.
- In column 10, line 67, make the number 1 in "VP1" a subscript.
- In column 11, line 8, make the number 2 in "VP2" a subscript.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

HENSLEY KIM & HOLZER, LLC
1660 Lincoln Street, Suite 3000
Denver, CO 80264

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED
SEP 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,836,017	:	
Issue Date: November 16, 2010	:	
Application No. 11/772,800	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: July 02, 2007	:	
Attorney Docket No. **200904602-5**	:	

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

Thurman 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.
11/772,866	07/03/2007	Billy L. Weaver	62887US002	1306

32692 7590 08/26/2010
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER
POPE, DARYL C

ART UNIT	PAPER NUMBER
2612	

NOTIFICATION DATE	DELIVERY MODE
08/26/2010	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):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

MAIL

AUG 26 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Weaver, Billy *et al.*
Application No. 11/772,866
Filed: July 03, 2007
Attorney Docket No. 62887US002

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is hereby withdrawn from issue after payment of the issue fee due to unpatentability of at least one or more claims. See 37 C.F.R. § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Daniel Wu at (571) 272-2964.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

CC: Office of Publications:

1. Patent Clerk, Randolph Square, Room 09D30-B
2. Supervisory Correspondence Clerk, Randolph Square, 09D33

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/772,878	07/03/2007	Billy L. Weaver	62890US002	1330

32692 7590 08/26/2010
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER
POPE, DARYL C

ART UNIT	PAPER NUMBER
2612	

NOTIFICATION DATE	DELIVERY MODE
08/26/2010	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):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.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

MAIL

AUG 2 6 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of:	:	
Weaver, Billy *et al.*	:	NOTICE OF WITHDRAWAL
Application No. 11/772,878	:	FROM ISSUE
Filed: July 03, 2007	:	UNDER 37 CFR 1.313(b)
Attorney Docket No. 62890US002	:	

The above-identified application is hereby withdrawn from issue after payment of the issue fee due to unpatentability of at least one or more claims. See 37 C.F.R. § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Daniel Wu at (571) 272-2964.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

CC: Office of Publications:

1. Patent Clerk, Randolph Square, Room 09D30-B
2. Supervisory Correspondence Clerk, Randolph Square, 09D33

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

AUG 16 2011

OFFICE OF PETITIONS

In re Application of	:
Van Diggelen et al.	:
Application No. 11/772,927	: DECISION ON PETITION
Filed: July 3, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18983US03	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 12, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

In the amendment to the specification, petitioner wishes to add, "This application also is a continuation-in-part and claims priority to currently pending U.S. Patent Application 11/775,212, filed 7/9/2007 that is a continuation of Application 11/077,309, filed 3/10/2005, that is a Division of U.S. Application 10/461,890, filed 6/13/2003."

However, 35 U.S.C. 120 is reserved for benefit claims to ***prior-filed*** nonprovisional applications. Since Application No. 11/775,212 was filed on July 9, 2007, which is after the July 3, 2007 filing date of the instant application, the petition cannot be granted.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the claim to Application No. 11/775,212, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,848,550	:	
Issued: 12/07/2010	:	
Application No. 11/773,017	:	NOTICE
Filed: 07/03/2007	:	
Attorney Docket No. 2800-133	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 27, 2011.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. 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

LEWIS, BRISBOIS, BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CA 90012

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of	:	
James R. Privitera	:	
Application No. 11/773,034	:	ON PETITION
Filed: July 3, 2007	:	
Attorney Docket No. 28989-2	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 11, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement (PTO/SB/130 form) by the applicant's attorney that the applicant is 65 years of age or more. Accordingly, the above-identified application has been accorded "special" status.

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

/A. Kelley-Collier/
Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown NJ 07962-2245

MAILED
FEB 01 2012
OFFICE OF PETITIONS

In re Patent of Manfred et al.	:	
Patent No. 8,068,943	:	
Issue Date: November 29, 2011	:	DECISION ON REQUEST
Application No. 11/773,101	:	FOR RECONSIDERATION OF
Filed: July 3, 2007	:	PATENT TERM ADJUSTMENT
Docket No. H0015196-5478/	:	
400.580US01	:	

This is a decision on the petition filed on January 25, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-nine (859) days.

The petition under 37 CFR 1.705(d) is **dismissed.**

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). The Office concurs with patentees' assertion that the maximum B delay period begins on July 4, 2010, which is one day after three years after the filing of the application on July 3, 2007, and ends on November 29, 2011, when the patent issued.

However, patentees' determination of the B delay period fails to properly calculate the time excluded from B delay due to appellate review. 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 first period consumed by appellate review is 84 days, beginning on May 15, 2010, the date of filing of the first notice of appeal and ending on August 5, 2010, the subsequent date of the mailing of a non-final Office action. The second period consumed by appellate review is 148 days, beginning on February 28, 2011, the date of filing of the second notice of appeal and ending on July 25, 2011, the subsequent date of the mailing of a notice of allowance.

Thus, B delay is 282 (514 - 84 - 148) 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). This fee is required and will not be refunded. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

R.R (PRINCETON)
56 MALDENHEAD ROAD
PRINCETON NJ 08540

RECEIVED
NOV 0 1 2010
OFFICE OF PETITIONS

In re Application of	:	
Hovnanian et al.	:	
Application No. 11/773,226	:	DECISION ON PETITION
Filed: July 3, 2007	:	
Attorney Docket No. AdChooser_CIP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, December 17, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on March 18, 2010. A Notice of Abandonment was mailed September 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, 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, three- month extension of time fee submitted with the petition on October 13, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

This matter is being referred to Technology Center AU 3622 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of
Weiqi DING, et *al.*
Application No. 11/773,234
Filed: July 3, 2007
Attorney Docket No. **000174-0520-101/A02674**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 13, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 2, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2112 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN J. OSKOREP, ESQ. LLC
ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVE.
SUITE 1400
CHICAGO IL 60611

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Frank Joseph Oskorep et al. :
Application No. 11/773,244 : ON PETITION
Filed: July 3, 2007 :
Attorney Docket No. **0901-0002-C3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 11, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 12, 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).

The proposed reply required for consideration of a petition to revive must be either a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on February 15, 2010, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A copy of the Advisory Action explaining why the amendment was not accepted is enclosed with this decision.

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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

Enclosed: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/773,244	Applicant(s) OSKOREP ET AL.	
	Examiner MINH D. A	Art Unit 2821	

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

THE REPLY FILED 16 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-21*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: claims 1-21 would require further search.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

UNITED STATES 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, P.A.
12086 FORT CAROLINE ROAD
UNIT 202
JACKSONVILLE, FL 32225

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of
Rolando Rivero
Application No. 11/773,255
Filed: July 3, 2007
Attorney Docket No. RR07.001

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.

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

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

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 3732 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
www.uspto.gov

ARNOLD & KNOBLOCH, LLP
4900 WOODWAY DRIVE, SUITE 900
HOUSTON, TX 77056

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of
Adrian Vuyk, et al.
Application No. 11/773,355
Filed: July 3, 2007
Attorney Docket No. 32316USCIP9

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 11, 2011.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Arnold & Knobloch, LLP has been revoked by the assignee of the patent application on March 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 undersigned at 571-272- 1642.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/773,390	07/03/2007	Jean-Marie Brunet	100122-001400US	1276

7590 05/18/2011
Mentor Graphics Corporation
ATTN: Legal Department, Patent Group
8005 SW Boeckman Road
Wilsonville, OR 97070-7777

EXAMINER
DINH, PAUL

ART UNIT	PAPER NUMBER
2825	

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

Mentor Graphics Corporation
ATTN: Legal Department, Patent Group
8005 SW Boeckman Road
Wilsonville, OR 97070-7777

In re Application of:	:	
Jean-Marie Brunet et al.	:	DECISION *SUA SPONTE*
Serial No.: 11/773,390	:	WITHDRAWING HOLDING
Filed: July 03, 2007	:	OF ABANDONMENT
Attorney Docket No.: 100122-001400US	:	

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

A Final Office action was mailed on June 25, 2010. A Notice of Appeal was timely filed on December 27, 2010. To perfect the appeal, an Appeal Brief must be filed within two months of the date of the notice of appeal. This time period may be extended under 37 CFR 1.136(a). Since the time for filing the appeal brief may be extended for up to a maximum five months from its due date of February 27, 2011, the appeal brief will be considered timely filed if submitted on or before July 27, 2011 along with a petition for an extension of time of five months and requisite fees. As such, the holding that the instant application became abandoned and the mailing of the Notice of Abandonment on April 20, 2011 are in error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending and under appeal status. July 27, 2011 will be the last day for the applicant to take appropriate action.

Any inquiry regarding this decision should be directed to Jack Chiang, Supervisory Patent Examiner, at (571) 272-7483.

John W. Cabeca, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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.
11/773,483	07/05/2007	Oswald Lanz	1110 008 301 0271	1472

37211 7590 03/08/2011
BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

EXAMINER
NAKHJAVAN, SHERVIN K

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
03/08/2011	ELECTRONIC

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

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

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

dneels@bnpatentlaw.com
dmasters@bnpatentlaw.com
mnickerson@bnpatentlaw.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

MAIL

MAR 08 2011

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526

In re Application of
Lanza, Oswald
Serial No.: 11/773,483
Filed: July 5, 2007
For: **METHOD AND APPARATUS FOR TRACKING A NUMBER OF OBJECTS OR OBJECT PARTS IN IMAGE SEQUENCES**

DECISION ON PETITION
ACCEPTANCE OF COLOR PHOTOGRAPHS

This is a decision on the petition under filed October 23, 2007, requesting acceptance colored drawings. The petition requests that the color drawings be accepted in lieu of black and white drawings.

The petition requests that the color drawings identified in Figures 1, 2, 3, 4 and 5 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The *petition* is **GRANTED**.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690-1135

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Sobue et al.	:	
Application No. 11/773,501	:	DECISION ON PETITION
Filed: July 5, 2007	:	
Attorney Docket No. 3712044-01482	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 6, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 6, 2010. Accordingly, the date of abandonment of this application is July 7, 2010. A Notice of Abandonment was mailed July 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

Joan Olszewski
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 P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Steffen Steuer, et al.	:	
Application No. 11/773,508	:	DECISION GRANTING PETITION
Filed: July 5, 2007	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 12-0264	:	

This is a decision on the petition, filed November 17, 2010, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **SCULLY, SCOTT, MURPHY & PRESSER, P.C.**
400 Garden City Plaza, Suite 300
Garden City, New York 11530

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AEON LAW
1525 4TH AVE, STE 800
SEATTLE WA 98101-1648

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of
Maria Gaos, et al.
Application No. 11/773,524
Filed: July 5, 2007
Attorney Docket No. GAOS-2007024

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 13, 2010.

The request is **NOT APPROVED**.

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

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have delivered to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled or notified the client of any responses that may be due and the time frame within which they must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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

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

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

cc: MARIA GAOS
22104 4TH PL W
BOTHELL, WA 98021

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AEON LAW
1525 4TH AVE, STE 800
SEATTLE, WA 98101-1648

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of
Maria Gaos, et al.
Application No. 11/773,524
Filed: July 5, 2007
Attorney Docket No. GAOS-2007024

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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 request was signed by Adam K. Philipp on behalf of all attorneys of record who are associated with customer No. 46345. All attorneys/agents associated with the Customer Number 46345 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 14, 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: MARIA GAOS
22104 4TH PLACE 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
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/773,524	07/05/2007	Maria Gaos	GAOS-2007024

CONFIRMATION NO. 1540

POWER OF ATTORNEY NOTICE

46345
AEON LAW
1525 4TH AVE, STE 800
SEATTLE, WA 98101-1648

OC000000043716444

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.

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : July 15,2011

In re Application of :

Youichiro NAKAHARA

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11773692

Filed : 05-Jul-2007

Attorney Docket No : P32449

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed July 15,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 1784 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11773692
Filing Date	05-Jul-2007
First Named Inventor	Youichiro NAKAHARA
Art Unit	1784
Examiner Name	JASON SAVAGE
Attorney Docket Number	P32449
Title	SILVER LAYER FORMED BY ELECTROSILVERING SUBSTRATE MATERIAL

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	/Arnold Turk/
Name	Arnold Turk
Registration Number	33094

EAST Search History

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L2	234	microfluidic and channel and actuator and deformable	US-PGPUB; UPAD	OR	OFF	2010/09/12 22:51
L3	19	2 and "137"/$.ccls.	US-PGPUB; UPAD	OR	OFF	2010/09/12 22:53
L4	1696	microfluidic and channel and actuators	US-PGPUB; UPAD	OR	OFF	2010/09/12 22:56
L5	89	4 and "137"/$.ccls.	US-PGPUB; UPAD	OR	OFF	2010/09/12 22:57

9/12/10 11:07:17 PM
C:\Documents and Settings\klee\My Documents\EAST\Workspaces\!default workspace.wsp

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
STEFANESCU, et al	:	
Application No. 11/773,793	:	DECISION ON PETITION
Filed: July 5, 2007	:	TO WITHDRAW
Attorney Docket No. BLANC0002	:	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 3, 2011.

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

A review of the file record indicates that all prior powers of attorney, has been revoked by the assignee of the patent application on September 11, 2002. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All communications from the Office will continue to be directed to the address copied below until otherwise properly notified by the applicant.

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

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

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

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
11/773,793	07/05/2007	Eliade Stefanescu	BLANC0002

CONFIRMATION NO. 2011

POWER OF ATTORNEY NOTICE

24203
GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

OC000000049273011

Date Mailed: 08/15/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2011.

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

/agizaw/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/773,793	07/05/2007	Eliade Stefanescu	32752-00001

CONFIRMATION NO. 2011

POA ACCEPTANCE LETTER

30678
CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

OC000000049273088

Date Mailed: 08/15/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2011.

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.

/agizaw/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRIFFIN &SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of	:	
STEFANESCU, et al	:	
Application No. 11/773,850	:	DECISION ON PETITION
Filed: July 5, 2007	:	TO WITHDRAW
Attorney Docket No. BLANC0003	:	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 3, 2011.

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

A review of the file record indicates that the power of attorney to Joerg-Uwe Szipl, has been revoked by the inventors of the patent application on August 5, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All communications from the Office will continue to be directed to the address copied 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: CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRIFFIN &SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of	:	
STEFANESCU, et al	:	
Application No. 11/773,862	:	DECISION ON PETITION
Filed: July 5, 2007	:	TO WITHDRAW
Attorney Docket No. BLANC0004	:	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 3, 2011.

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

A review of the file record indicates that the power of attorney to Joerg-Uwe Szipl, has been revoked by the inventors of the patent application on August 17, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All communications from the Office will continue to be directed to the address copied 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: CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

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
11/773,862	07/05/2007	Eliade Stefanescu	BLANC0004

CONFIRMATION NO. 2126

POA ACCEPTANCE LETTER

30678
CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

OC000000049437907

Date Mailed: 08/22/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/17/2011.

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.

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/773,862	07/05/2007	Eliade Stefanescu	BLANC0004

CONFIRMATION NO. 2126

POWER OF ATTORNEY NOTICE

24203
GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

OC000000049437918

Date Mailed: 08/22/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/17/2011.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
FEB 06 2012
OFFICE OF PETITIONS

In re Application
Goldman
Application No. 11/773,884
Filing or 371(c) Date: July 5, 2007
Dkt. No.: 07844-0842001

: PATENT TERM ADJUSTMENT

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**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 658 days, not 656 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed November 10, 2011. Applicants assert that the application was improperly accorded an adjustment of 933 days in connection with the mailing of the decision by the BPAI on August 2, 2010.

The arguments presented have been carefully reviewed and found convincing. A review of the record reveals that the application is not subject to a reduction under 37 CFR 1.704(b) with respect to the reply filed September 27, 2010.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of 658 days.

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).

The Adjusted PAIR Calculation can be assessed via public and/or private PAIR.

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

Patent Term Adjustments

Best Available

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

Application Number*: 11773884 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11773884

Application Filing Date	07/05/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	658
A Delays	658	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	2
C Delays	0	Total PTA (days)	658

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
94	02/02/2012		P028	Adjustment of PTA Calculation by PTO	2		0
85	10/28/2011		MN/=.	Mail Notice of Allowance			0
84	10/25/2011		OAR	Office Action Review			0
83	10/25/2011		OAR	Office Action Review			0
82	10/25/2011		IREV	Issue Revision Completed			0
81	10/25/2011		DVER	Document Verification			0
80	10/25/2011		N/=.	Notice of Allowance Data Verification Completed			0
79	10/24/2011		EX.R	Reasons for Allowance			0
78	10/24/2011		CNTA	Allowability Notice			0
72	10/13/2011		ABN9	Disposal for a RCE / CPA / R129			0
77	10/10/2011		IDSC	Information Disclosure Statement considered			0
76	10/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
75	10/10/2011		RCAP	Reference capture on IDS			0
74	10/10/2011		M844	Information Disclosure Statement (IDS) Filed			0
73	10/10/2011		RCEX	Request for Continued Examination (RCE)			0
71	10/10/2011		BRCE	Workflow - Request for RCE - Begin			0
70	07/12/2011		EIDC	Export to Initial Data Capture			0
69	07/12/2011		ELC_RVW	Electronic Review			0
68	07/12/2011		EML_NTF	Email Notification			0
67	07/12/2011		MN/=.	Mail Notice of Allowance			0
66	07/06/2011		OAR	Office Action Review			0
65	07/06/2011		OAR	Office Action Review			0
64	07/06/2011		IREV	Issue Revision Completed			0
63	07/06/2011		DVER	Document Verification			0
62	07/06/2011		N/=.	Notice of Allowance Data Verification Completed			0
61	07/03/2011		EX.R	Reasons for Allowance			0
60	07/03/2011		CNTA	Allowability Notice			0
58	06/28/2011		ABN9	Disposal for a RCE / CPA / R129			0
57	06/23/2011		DOCK	Case Docketed to Examiner in GAU			0
59	06/08/2011		RCEX	Request for Continued Examination (RCE)			0
56	06/08/2011		IDSC	Information Disclosure Statement considered			0
52	06/08/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
51	06/08/2011		BRCE	Workflow - Request for RCE - Begin			0
54	06/07/2011		RCAP	Reference capture on IDS			0
50	04/05/2011		FIDC	Finished Initial Data Capture			0
48	03/22/2011		ELC_RVW	Electronic Review			0
47	03/22/2011		EML_NTR	Email Notification			0
46	03/22/2011		EML_NTF	Email Notification			0
45	03/22/2011		MEX.A	Mail Examiner's Amendment			0
44	03/22/2011		MN/=.	Mail Notice of Allowance			0
49	03/21/2011		EIDC	Export to Initial Data Capture			0
43	03/14/2011		IREV	Issue Revision Completed			0
42	03/14/2011		DVER	Document Verification			0
41	03/14/2011		N/=.	Notice of Allowance Data Verification Completed			0
40	03/14/2011		EX.A	Examiner's Amendment Communication			0
38	03/14/2011		CNTA	Allowability Notice			0
39	03/02/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
35	01/04/2011		FWDX	Date Forwarded to Examiner			0
36	12/28/2010		LET.	Miscellaneous Incoming Letter			0
34	12/28/2010		A.NE	Amendment after Final Rejection			0
33	12/21/2010		EML_NTR	Email Notification			0
32	12/21/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
31	12/15/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
30	11/01/2010		ELC_RVW	Electronic Review			0
29	10/28/2010		EML_NTF	Email Notification			0
28	10/28/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
27	10/25/2010		CTFR	Final Rejection			0
26	09/28/2010		FWDX	Date Forwarded to Examiner			0
25	09/27/2010	09/25/2010	A...	Response after Non-Final Action		2	22
24	06/25/2010		ELC_RVW	Electronic Review			0
23	06/25/2010		EML_NTF	Email Notification			0
22	06/25/2010	09/05/2008	MCTNF	Mail Non-Final Rejection	658		0.5
21	06/21/2010		CTNF	Non-Final Rejection			0
18	05/14/2010		DOCK	Case Docketed to Examiner in GAU			0
16	01/05/2010		DOCK	Case Docketed to Examiner in GAU			0

14	02/28/2008	DOCK	Case Docketed to Examiner in GAU	0
13	01/28/2008	TI1050	Transfer Inquiry to GAU	0
12	11/02/2007	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
17	09/10/2007	IDSC	Information Disclosure Statement considered	0
11	09/10/2007	RCAP	Reference capture on IDS	0
10	09/10/2007	M844	Information Disclosure Statement (IDS) Filed	0
9	09/10/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
8	08/02/2007	OIPE	Application Dispatched from OIPE	0
7	07/17/2007	PGPC	Sent to Classification Contractor	0
6	07/17/2007	COMP	Application Is Now Complete	0
5	07/09/2007	L194	Cleared by OIPE CSR	0
4	07/09/2007	CLSS	CASE CLASSIFIED BY OIPE	0
3	07/06/2007	SCAN	IFW Scan & PACR Auto Security Review	0
2	07/05/2007	NPRQ	PGPubs nonPub Request	0
1	07/05/2007	IEXX	Initial Exam Team nn	0
0.5	07/05/2007	EFILE	Filing date	0

Export to: Excel

UNITED STATES 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.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of	:	
BRICHFORD et al.	:	
Application No. 11/773,924	:	DECISION ON APPLICATION
Filed: 07/05/2007	:	FOR
Docket No. 07844-840001/P742	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed July 28, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred ninety-six (896) days to nine hundred thirty-six (936) days.

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

The Office has updated the PALM and PAIR screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is nine hundred thirty-six (936) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

A review of the application history confirms that applicants' characterization of the basis for and amounts of the adjustments and reductions of patent term in this application at the time of the mailing of the Notice of Allowance are correct.

In view thereof, the corrected determination of patent term adjustment at the time of the mailing of the Notice of Allowance is nine hundred thirty-six (936) days.

The Office acknowledges the payment 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 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

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

Application Number*: 11773924 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11773924

Application Filing Date	07/05/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	896
A Delays	896	PTO Manual Adjustment	40
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	936

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
90	08/08/2011		P028	Adjustment of PTA Calculation by PTO	936		0
89	08/08/2011		P028	Adjustment of PTA Calculation by PTO		896	0
79	05/03/2011		MN/=.	Mail Notice of Allowance			0
78	04/28/2011		IREV	Issue Revision Completed			0
77	04/28/2011		DVER	Document Verification			0
76	04/28/2011		N/=.	Notice of Allowance Data Verification Completed			0
75	04/28/2011		DOCK	Case Docketed to Examiner in GAU			0
74	04/26/2011		CNTA	Allowability Notice			0
71	04/15/2011		FWDX	Date Forwarded to Examiner			0
73	04/14/2011		IDSC	Information Disclosure Statement considered			0
72	04/14/2011	04/14/2011	EIDS.	Electronic Information Disclosure Statement			70
70	04/14/2011		A...	Response after Non-Final Action			0
69	04/14/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
68	03/30/2011		MFAIA	Mail First Action Interview Office Action			0
67	03/28/2011		FAIA	PILOT - First Action Interview Office Action			0
66	03/23/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
62	03/22/2011		FWDX	Date Forwarded to Examiner			0
61	03/15/2011		RPICO	Response to PICO-Request			0
60	02/18/2011	09/05/2008	MPICO	Mail Pre-Interview Communication	896		0.5
59	02/14/2011		PICO	Pre-Interview Communication			0
30	02/01/2011		DOCK	Case Docketed to Examiner in GAU			0
29	10/31/2010		DOCK	Case Docketed to Examiner in GAU			0
28	10/28/2010		DOCK	Case Docketed to Examiner in GAU			0
27	10/11/2010		DOCK	Case Docketed to Examiner in GAU			0
26	10/05/2010		TI1050	Transfer Inquiry to GAU			0
25	09/07/2010		TI1050	Transfer Inquiry to GAU			0
18	07/20/2010		DOCK	Case Docketed to Examiner in GAU			0
17.	07/20/2010		DOCK	Case Docketed to Examiner in GAU			0
16	07/20/2010		DOCK	Case Docketed to Examiner in GAU			0
15	07/14/2010		DOCK	Case Docketed to Examiner in GAU			0
14	06/20/2010		TI1050	Transfer Inquiry to GAU			0
13	06/18/2010		TI1050	Transfer Inquiry to GAU			0
12	11/20/2009		A.PE	Preliminary Amendment			0
11	11/20/2009		RFAI	Request for first action interview			0
9	07/08/2009		D5001	Dispatch from OIPE to Corps - U-P-R-D Application			0
24	09/10/2007		RCAP	Reference capture on IDS			0
23	09/10/2007		M844	Information Disclosure Statement (IDS) Filed			0
19	09/10/2007		IDSC	Information Disclosure Statement considered			0
8	09/10/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
6	07/30/2007		COMP	Application Is Now Complete			0
7	07/27/2007		PGPC	Sent to Classification Contractor			0
5	07/18/2007		L128	Cleared by L&R (LARS)			0
4	07/14/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	07/09/2007		SCAN	IFW Scan & PACR Auto Security Review			0
2	07/05/2007		NPRQ	PGPubs nonPub Request			0
1	07/05/2007		IEXX	Initial Exam Team nn			0
0.5	07/05/2007		EFILE	Filing date			0

Export to: Excel

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	11773933
Filing Date	05-Jul-2007
First Named Inventor	Richard Ewers
Art Unit	3773
Examiner Name	DARWIN EREZO
Attorney Docket Number	USGINZ02117
Title	LOW PROFILE TISSUE ANCHORS, TISSUE ANCHOR SYSTEMS, AND METHODS FOR THEIR DELIVERY AND USE

◉ 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 : 11773933

Filed : 05-Jul-2007

Attorney Docket No : USGINZ02117

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUL 20 2011
OFFICE OF PETITIONS

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

In re Application of :
Mitchell et al. :
Application No. 11/773,946 :
Filed: July 5, 2007 :
Attorney Dkt No. 02121. 008US1 :
For: PYRIMIDYL CYCLOPENTANES AS :
AKT PROTEIN KINASE INHIBITORS :
:

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER TO 37 CFR §1.705(b)", filed June 2, 2011. Applicants request that the determination of patent term adjustment be corrected from five hundred forty-two (542) days to six hundred six (606) days.

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).

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

Applicant disputes the 64 day reduction for the submission of the supplemental amendment on February 24, 2011. Applicants contend the February 24, 2011 was requested by the examiner thus the 64 day reduction should be removed.

A review of the record shows that the 64 day reduction for the submission of the supplemental amendment on February 24, 2011 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 February 24, 2011 supplemental response does not constitute a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the 64 day reduction will be removed.

Applicants' delay prior to the mailing of the Notice of Allowance is eight (8) days. Office delay prior to the mailing of the Notice of Allowance is six hundred fourteen (614) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is six hundred six (606) 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
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

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

Application Number*: 11773946 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11773946

Application Filing Date	07/05/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	614
A Delays	614	PTO Manual Adjustment	64
B Delays	0	Applicant Delay (APPL)	72
C Delays	0	Total PTA (days)	606

* - 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	07/19/2011		P028	Adjustment of PTA Calculation by PTO	64		0
50	03/02/2011		MN/=.	Mail Notice of Allowance			0
49	03/01/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
47	02/28/2011		IREV	Issue Revision Completed			0
46	02/28/2011		DVER	Document Verification			0
45	02/28/2011		N/=.	Notice of Allowance Data Verification Completed			0
43	02/28/2011		CNTA	Allowability Notice			0
39	02/26/2011		FWDX	Date Forwarded to Examiner			0
48	02/24/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
42	02/24/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
40	02/24/2011		IDSC	Information Disclosure Statement considered			0
38	02/24/2011	12/22/2010	SA..	Supplemental Response		64	34
37	02/24/2011		M844	Information Disclosure Statement (IDS) Filed			0
36	02/24/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
44	02/22/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
35	01/07/2011		FWDX	Date Forwarded to Examiner			0
34	12/22/2010	12/14/2010	A...	Response after Non-Final Action		8	32
33	12/22/2010		XT/G	Request for Extension of Time - Granted			0
32	09/14/2010		MCTNF	Mail Non-Final Rejection			0
31	09/13/2010		CTNF	Non-Final Rejection			0
26	08/18/2010		CRFE	CRF Is Good Technically / Entered into Database			0
23	08/18/2010		FWDX	Date Forwarded to Examiner			0
29	08/12/2010		IDSC	Information Disclosure Statement considered			0
25	08/12/2010		RCAP	Reference capture on IDS			0
24	08/12/2010	08/12/2010	M844	Information Disclosure Statement (IDS) Filed			22
22	08/12/2010		ELC.	Response to Election / Restriction Filed			0
21	08/12/2010		XT/G	Request for Extension of Time - Granted			0
20	08/12/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
19	05/12/2010	09/05/2008	MCTRS	Mail Restriction Requirement	614		0.5
18	05/10/2010		CTRS	Restriction/Election Requirement			0
30	03/25/2009		IDSC	Information Disclosure Statement considered			0
16	03/25/2009		RCAP	Reference capture on IDS			0
15	03/25/2009		M844	Information Disclosure Statement (IDS) Filed			0
14	03/25/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
13	03/06/2008		PG-ISSUE	PG-Pub Issue Notification			0
12	12/21/2007		DOCK	Case Docketed to Examiner in GAU			0
11	12/17/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
10	12/05/2007		OIPE	Application Dispatched from OIPE			0
9	11/26/2007		PGPC	Sent to Classification Contractor			0
8	11/26/2007		FLRCPT.U	Filing Receipt - Updated			0
7	11/16/2007		ADDFLFEE	Additional Application Filing Fees			0
6	11/16/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	07/19/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	07/10/2007		L194	Cleared by OIPE CSR			0
3	07/10/2007		CLSS	CASE CLASSIFIED BY OIPE			0
2	07/09/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	07/05/2007		IEXX	Initial Exam Team nn			0
0.5	07/05/2007		EFILE	Filing date			0

Export to: Excel

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morrison & Foerster, LLP
425 Market Street
San Francisco, CA 94105-2482

MAILED

SEP 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Katrin Strandemar et al.	:	
Application No. 11/773,977	:	DECISION ON PETITION
Filed: July 6, 2007	:	TO WITHDRAW
Attorney Docket No. FLIR AB-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 August 18, 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 Michael R. Ward and all attorneys/agents of record has been revoked by the assignee of the patent application on August 25, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: The H.T. Than Law Group
Waterfront Center Suite 560
1010 Wisconsin Avenue NW
Washington, DC 20007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER, LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of
Katrin Strandemar, et al.
Application No. 11/773,982
Filed: July 6, 2007
Attorney Docket No. 674912000200

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 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 request was signed by Robert A. Saltzberg on behalf of all attorneys of record who are associated with customer No. 20872. All attorneys/agents associated with the Customer Number 20872 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed June 2, 2010 which requires a reply from 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: FLIR SYSTEMS AB
PO BOX 3
DANDERYD SWEDEN SE -182 11

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
11/773,982	07/06/2007	Katrin Strandemar	674912000200

CONFIRMATION NO. 2358

POWER OF ATTORNEY NOTICE

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

OC000000043135935

Date Mailed: 08/20/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/28/2010.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael BOGNER et al.	:	
Application No. 11/773,998	:	DECISION ON PETITION
Filed: July 06, 2007	:	
Attorney Docket No. INA-PT252 (5191-18-US)	:	

This is a decision on the petition under 37 CFR 1.137(a), filed October 12, 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 under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 31, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 01, 2010.

Petitioner asserts that the Office action dated December 31, 2009 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

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

The copy of the reply to the Office action of December 31, 2009 supplied with the petition will be accepted.

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

This application is being referred to Technology Center AU 3657 for appropriate action in the normal course of business on the reply received with petition.

/Thurman K. Page/
Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CALFEE, HALTER & GRISWOLD LLP
1400 KEYBANK CENTER
800 SUPERIOR AVENUE
CLEVELAND, OH 44114

MAILED
MAR 23 2011
OFFICE OF PETITIONS

In re Application of
Paul R. PEOT, et *al.*
Application No. 11/774,038
Filed: July 6, 2007
Attorney Docket No. **27475/09899**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 22, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 14, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 26 2010

OFFICE OF PETITIONS

PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

In re Application of	:	
Hossein Omidian et al.	:	
Application No. 11/774,069	:	DECISION ON PETITION
Filed: July 06, 2007	:	
Attorney Docket No. **SD-10008USO1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 08, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 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 January 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of October 28, 2009 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 1615 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **LISA V. MUELLER**
161 N. CLARK STREET
SUITE 4200
CHICAGO IL 60601

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Edward L. Gibbs

Application No. 11774070

Filed: July 6,2007

Attorney Docket No. 055

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 23-AUG-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/10/12

TO SPE OF : ART UNIT: 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/774,152 Patent No. 7,959,083

CofC mailroom date 1/30/12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: The request for Certificate of Correction filed January 30, 2012 has been reviewed and approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Steven S. Paik/ 2887

SPE Art Unit

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): 11/774,216	Patent Number (if applicable):
First Named Inventor: KUWABARA	Title of Invention: Imprint Apparatus And Imprint Method

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 /Melvin Kraus/ MK	Date 5/13/11
Name (Print/Typed) Melvin Kraus	Practitioner Registration Number 22,466

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

☐ *Total of 1 forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Kuwabara et al.	:	
Application No. 11/774,216	:	DECISION ON PETITION
Filed: July 6, 2007	:	
Attorney Docket No. 513.47682X00	:	

This is a decision on the request filed May 13, 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 February 16, 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 2854 for re-mailing the Office action of February 16, 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

Paper No.

PATENT DEPARTMENT (51851)
KILPATRICK TOWNSEND &
STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Nelson et al.	:	
Application No. 11/774,223	:	ON APPLICATION FOR
Filed: July 6, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
IMD267 (I103 1200.1)	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed on June 7, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 252 days, not 274 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

The application for patent term adjustment is **GRANTED to the extent indicated**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED SEVENTEEN (217) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

---

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

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

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

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **GRANTED**.

On March 30, 2011, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed. The patent term adjustment at the time of the mailing of the Notice of Allowance was 274 days (394 days of Office delay and 120 days of applicant delay). This application for patent term adjustment was timely filed with or prior to payment of the issue fee.[2]

Applicants disclose that an additional period of 57 days of applicant delay should be entered in connection with the information disclosure statement (IDS) filed on March 22, 2011, 57 days after the day after January 24, 2011, the date a reply was filed to the non-final Office action mailed on August 26, 2010.

Applicants are correct. On March 22, 2011, an IDS was filed, 57 days after the day after the date a reply was filed, January 24, 2011, to the non-final Office action. The IDS did not contain the statement set forth at 37 CFR 1.704(d). Pursuant 37 CFR 1.704(c)(8), an additional period of reduction for applicant delay of 57 days is warranted and will be entered.

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 217 days (394 days of Office delay less 177 (120 + 57) days of applicant delay).

---

[2] PALM records indicate that the issue fee was paid on June 7, 2011.

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Updated PAIR calculation

11/774,223	SIMULATION OF COUPLED OBJECTS	IMD267 (I103 1200.1)	07-20-2011::11:18:26

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/774,223

Filing or 371(c) Date:	07-06-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	394
A Delays:	394	PTO Manual Adjustments:	-57
B Delays:	0	Applicant Delays:	120
C Delays:	0	Total PTA Adjustments:	217

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
65	07-20-2011	Adjustment of PTA Calculation by PTO		57	0
56	03-30-2011	Mail Notice of Allowance			0
55	03-29-2011	Notice of Allowance Data Verification Completed			0
54	03-29-2011	Issue Revision Completed			0
53	03-29-2011	Document Verification			0
52	03-28-2011	Allowability Notice			0
51	03-22-2011	Information Disclosure Statement considered			0
50	03-22-2011	Information Disclosure Statement (IDS) Filed			0
48	01-24-2011	Date Forwarded to Examiner			0
47	01-24-2011	Response after Non-Final Action		59	43
46	01-24-2011	Request for Extension of Time - Granted			0
45	12-28-2010	Mail Examiner Interview Summary (PTOL - 413)			0
44	12-22-2010	Examiner Interview Summary Record (PTOL - 413)			0
43	08-26-2010	Mail Non-Final Rejection			0
42	08-25-2010	Non-Final Rejection			0
41	08-12-2010	Date Forwarded to Examiner			0
40	08-11-2010	Amendment Submitted/Entered with Filing of CPA/RCE			0
39	08-11-2010	Request for Continued Examination (RCE)		61	29
38	08-12-2010	Disposal for a RCE / CPA / R129			0
37	08-11-2010	Request for Extension of Time - Granted			0
36	08-11-2010	Workflow - Request for RCE - Begin			0
35	06-28-2010	Change in Power of Attorney (May Include Associate POA)			0
34	06-23-2010	Mail Advisory Action (PTOL - 303)			0
33	06-21-2010	Advisory Action (PTOL-303)			0
32	06-14-2010	Date Forwarded to Examiner			0
31	06-10-2010	Amendment after Final Rejection			0
30	06-14-2010	Correspondence Address Change			0
29	03-11-2010	Mail Final Rejection (PTOL - 326)			0
28	03-10-2010	Final Rejection			0
27	01-08-2010	Date Forwarded to Examiner			0
26	01-05-2010	Response after Non-Final Action			0
25	11-13-2009	Case Docketed to Examiner in GAU			0
24	10-05-2009	Mail Non-Final Rejection	394		0.5
23	10-01-2009	Non-Final Rejection			0
20	01-29-2009	Information Disclosure Statement considered			0
19	07-18-2007	Information Disclosure Statement considered			0
18	08-04-2009	Case Docketed to Examiner in GAU			0
17	01-29-2009	Information Disclosure Statement (IDS) Filed			0
16	01-29-2009	Information Disclosure Statement (IDS) Filed			0
15	01-08-2009	PG-Pub Issue Notification			0
14	05-07-2008	Rescind Nonpublication Request for Pre Grant Publication			0

13	02-05-2008	Case Docketed to Examiner in GAU	0
12	12-05-2007	IFW TSS Processing by Tech Center Complete	0
11	07-18-2007	Information Disclosure Statement (IDS) Filed	0
10	11-09-2007	Application Dispatched from OIPE	0
9	07-24-2007	Sent to Classification Contractor	0
8	07-25-2007	Application Is Now Complete	0
5	07-06-2007	PGPubs nonPub Request	0
4	07-18-2007	Information Disclosure Statement (IDS) Filed	0
3	07-13-2007	Cleared by OIPE CSR	0
2	07-08-2007	IFW Scan & PACR Auto Security Review	0
1	07-06-2007	Initial Exam Team nn	0
0.5	07-06-2007	Filing date	0

Close Window

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.
11/774,243	07/06/2007	Quing Zhu	UCT-0102	2841

23413 7590 05/19/2011
CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER
CWERN, JONATHAN

ART UNIT	PAPER NUMBER
3737	

NOTIFICATION DATE	DELIVERY MODE
05/19/2011	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):

usptopatentmail@cantorcolburn.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

CANTOR COLBURN LLP
Attention: David E. Rodrigues
55 Griffin Road South
Bloomfield, Connecticut 06002

In re Application of: QUING ZHU	)	
Application No. 11/774243	)	
Filed: July 6, 2007	)	
For: METHOD AND APPARATUS FOR MEDICAL IMAGING USING NEAR-INFRARED OPTICAL TOMOGRAPHY AND FLOURESCENCE TOMOGRAPHY COMBINED WITH ULTRASOUND	)	**DECISION ON PETITION UNDER 37 C.F.R. э 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. э 1.84(a)(2), filed November 1, 2007, requesting acceptance of color drawings. The petition requests that all the drawings, which are in color, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. э 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. э 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 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."

Review of the application and of the claims shows that color drawings, while convenient, are not the only practical medium by which to disclose the subject matter.

Applicantэs submission does not meet all the criteria set out above. Accordingly, the petition is **DENIED**.

Brian L. Casler
/Brian L. Casler/
SPE Art Unit 3737
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/774,335	07/06/2007	Tsutomu Hiroki	311737US26DIV	3002

22850 7590 01/25/2011
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
RUDAWITZ, JOSHUA I

ART UNIT	PAPER NUMBER
3652	

NOTIFICATION DATE	DELIVERY MODE
01/25/2011	ELECTRONIC

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 2 4 2011

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

In re Application of	: DECISION ON PETITION
Tsutomu HIROKI et al.	: UNDER 37 CFR 1.181
Application No. 11/774,335	:
Filed: July 6, 2007	:
For: SEMICONDUCTOR PROCESSING	:
SYSTEM	:
	:

This is in response to applicants' petition under 37 CFR 1.181 filed November 19, 2010 requesting consideration of the Information Disclosure Statement (IDS) filed October 28, 2010.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that the examiner did consider the IDS as indicated in the miscellaneous communication to applicant mailed on November 26, 2010.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Saul J. Rodriguez at (571) 272-7097.

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

lm: 1/20/11
LM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11774338 Patent No.: 7920046

CofC mailroom date: 5/27/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note:

Claims

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

_____

_____

/Benjamin C. Lee/ _2612____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/17/11

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 7,856,938 Patent No. 11/774,356

CofC mailroom date 5/13/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

_____

_____

_____

SPE

3617
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/774,388	07/06/2007	Ping-Chang Wu	NAUP1110USA	3116

27765 7590 05/06/2011
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

EXAMINER
GUMEDZOE, PENIEL M

ART UNIT	PAPER NUMBER
2891	

NOTIFICATION DATE	DELIVERY MODE
05/06/2011	ELECTRONIC

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

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

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

Patent.admin.uspto.Rcv@naipo.com
mis.ap.uspto@naipo.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

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

In re Application of Ping-Chang Wu	:	
Appl. No.: 11/774,388	:	DECISION ON PETITION
Filed: July 6, 2007	:	UNDER 37 C.F.R. § 1.59
Attorney Docket No.: NAUP1110USA	:	
For: INTEGRATED CIRCUIT STRUCTURE AND	:	
MANUFACTURING METHOD THEREOF	:	
	:	

This is a response to the petition under 37 CFR 1.59(b), filed April 4, 2011, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte* Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner asserts that the invention disclosure document submitted in a second Supplementary Information Disclosure Statement, filed April 4, 2011, in accordance with MPEP § 724.02 is trade secret material, and requests that it be expunged from the record. Petitioner states that the information is trade secret material of the assignee that has not been made public and is being submitted by the applicant and commits to retain the document for the period of any patent that is issued from the above application. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits has not completed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

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

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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.
11/774,388	07/06/2007	Ping-Chang Wu	NAUP1110USA	3116

27765 7590 06/17/2011
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

EXAMINER
GUMEDZOE, PENIEL M

ART UNIT	PAPER NUMBER
2891	

NOTIFICATION DATE	DELIVERY MODE
06/17/2011	ELECTRONIC

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

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

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

Patent.admin.uspto.Rcv@naipo.com
mis.ap.uspto@naipo.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

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

In re Application of Ping-Chang Wu	:	
Appl. No.: 11/774,388	:	DECISION ON PETITION
Filed: July 6, 2007	:	UNDER 37 C.F.R. § 1.59
Attorney Docket No.: NAUP1110USA	:	
For: INTEGRATED CIRCUIT STRUCTURE AND	:	
MANUFACTURING METHOD THEREOF	:	
	:	

This is a decision on the petition under 37 C.F.R. §1.59(b), filed April 4, 2011, to expunge information filed concurrently therewith from the above-identified application. The application has been allowed and a Notice of Allowance and Fee(s) Due was mailed on May 27, 2011.

The petition is GRANTED.

Petitioner asserts that that the information filed on April 4, 2011, is trade secret material and requests that it be expunged from the record.

The information in question has been determined by the examiner and by the undersigned to not be material to the examination of the instant application and may be expunged. The expunged material has been removed from the official file record.

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

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

(for John Cabeca)

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
MAR 29 2012
OFFICE OF PETITIONS

Sprinkle IP Law Group/Zimmer
1301 W. 25th Street
Suite 408
Austin, TX 78705

In re Application of	:	
Javier Garcia et al.	:	
Application No. 11/774,406	:	DECISION ON PETITION
Filed: July 6, 2007	:	TO WITHDRAW
Attorney Docket No. 1292.1413104	:	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, 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 16, 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS LLP
IP DEPARTMENT (BOCA RATON)
SUITE 300
2700 NORTH MILITARY TRAIL
BOCA RATON FL 33431-1808

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of :
Birgit Schleifenbaum et al :
Application No. 11/774,408 : DECISION ON PETITION
Filed: July 6, 2007 :
Attorney Docket No. F6104-03101 :

This is a decision on the petitions filed March 9, 2012, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and under 37 CFR 1.137(b) to revive the above-identified application.

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

This application was held abandoned for failure to reply to the final Office action mailed June 20, 2011, which set a three (3) month shortened statutory period for reply.

Petitioner asserts that the Office action dated June 20, 2011 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of June 20, 2011. In this regard, the Office received a revocation of power of attorney with a new power of attorney, change of correspondence address on June 15, 2011, prior to the mailing of the Office action of June 20, 2011. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the holding of abandonment is hereby withdrawn.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT.**

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

This matter is being referred to the Technology Center technical support staff of Art Unit 1789.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/11

TO SPE OF : ART UNIT 3694

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/774,413 Patent No. 7,752,108

CofC mailroom date 6/3/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Please issue the certificate of correction based on the applicants request.

/Kambiz Abdi/ — **SPE**

3694 — **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

JANSSON SHUPE & MUNGER LTD.
245 MAIN STREET
RACINE, WI 53403

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of
Kurt S. Wilcox, et al.
Application No. 11/774,422
Filed: July 6, 2007
Attorney Docket No. Ru-194US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 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 April 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 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 of status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2885 for appropriate action by the Examiner in the normal course of business on the reply received July 12, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SAMUEL A. KASSATLY
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Michel Sarkis Obeid
Application No. 11/774,585
Filed: July 7, 2007
Attorney Docket No. OBEID.US01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 30, 2010 and resubmitted August 16, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from application where the requesting practitioners is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to the documents they file.

A review of the file record indicates that Samuel A. Kassatly does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

cc: MICHEL SARKIS OBEID
1 RUE LEON DELAGRANGE
PARIS 75015 FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARLEY SNYDER, LLC
1000 WESTLAKES DRIVE, SUITE 275
BERWYN PA 19312

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of
Leopold Mader, et al.
Application No. 11/774,627
Filed: July 9, 2007
Attorney Docket No. 21334-1715 (E-GI-00251US)

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 22, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application 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 .

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/774,651	07/09/2007	Anand Kodaganur	6150-06000	3656

35690 7590 09/08/2011
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER
MUDRICK, TIMOTHY A

ART UNIT	PAPER NUMBER
2194	

NOTIFICATION DATE	DELIVERY MODE
09/08/2011	ELECTRONIC

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

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

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

patent_docketing@intprop.com
ptomhkkg@gmail.com

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.
11/774,651	09 July, 2007	KODAGANUR ET AL.	6150-06000

		EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398		Hyung S. Sough	
		ART UNIT	PAPER
		2194	20110824

DATE MAILED:

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

Commissioner for Patents

In view of the papers filed 12/08/2010, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Craig Smith and Bharath Dev.
The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

/H. S. Sough/
Supervisory Patent Examiner, Art Unit 2194

UNITED STATES 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.

CARLSON, GASKEY & OLDS/PRATT
& WHITNEY
c/o CPA Global
P.O. Box 52050
Minneapolis MN 55402

MAILED
JAN 25 2012
OFFICE OF PETITIONS

In re Application of	:	
Ols et al.	:	DECISION ON
Application No. 11/774,701	:	PETITION
Filed: July 9, 2007	:	
Atty Docket No. PA0002760A;	:	
67097-743PUS1	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 29, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a proper reply to the final Office action mailed December 8, 2010. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A reply was received on June 8, 2011. However, it was determined not to place the application in condition for allowance (See Advisory Action mailed June 17, 2011). No further reply received and no further extension of time obtainable, the application became abandoned effective June 9, 2011. A courtesy Notice of Abandonment was mailed on October 12, 2011.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an

amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 3741 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed December 29, 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

RECHES PATENTS
211 NORTH UNION ST.
SUITE 100
ALEXANDRIA VA 22314

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Vladimir Bomze	:	
Application No. 11/774,725	:	DECISION GRANTING PETITION
Filed: July 9, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1196-ODLS-US	:	

This is a decision on the petition, filed June 7, 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 July 9, 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 previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date accompanies this decision on petition.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/774,725	07/09/2007	Vladimir Bomze	1196-ODLS-US

CONFIRMATION NO. 3786

NONPUBLICATION RESCISSION LETTER

69054
RECHES PATENTS
211 North Union St.
Suite 100
Alexandria, VA 22314

OC000000048453804

Date Mailed: 06/28/2011

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 10/06/2011.

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".

/jolszewski/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of	:	
YAMKA, et al	:	
Application No. 11/774,863	:	DECISION ON PETITION
Filed: July 9, 2007	:	
Attorney Docket No. 8186-00-HL	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 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 July 27, 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 September 28, 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 $1540; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to the Office of Data Management for further pre-examination processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKA CHAN LLP / ORACLE
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Umesh Madhav Apte et al.	:	
Application No. 11/774,969	:	DECISION ON PETITION
Filed: July 9, 2007	:	TO WITHDRAW
Attorney Docket No. ORACP040	:	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 24, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a 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

PAUL A. GUSS
PAUL A. GUSS ATTORNEY AT LAW
1211 SOUTH EADS STREET
NO. 1502
ARLINGTON VA 22202

MAILED
JAN 26 2012
OFFICE OF PETITIONS

In re Application of Tomita et al. Application No. 11/774,981 Filed: July 9, 2007 Attorney Docket No. CS-13-070731	: : : : :	DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 21, 2011, as required by the Notice of Allowance and Fee(s) Due mailed September 21, 2011. Accordingly, the date of abandonment of this application is December 22, 2011. A Notice of Abandonment was mailed January 3, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740.00 and the publication fee of $300.00, (2) the petition fee of $1,860.00; and (3) a proper statement of unintentional delay.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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.
11/774,989	07/09/2007	David B. Lection	I468/US	4245

49277 7590 08/24/2010
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
FISHBURN, JOHN P

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
08/24/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCENERA RESEARCH, LLC
111 CORNING RD.
SUITE 220
CARY NC 27518

In re Application of: Lection et al.
Application No. 11/774,989
Attorney Docket No. I468/US
Filed: July 9, 2007
For: METHOD AND SYSTEMS FOR PROVIDING REMOTE STRAGE VIA A REMOVABLE MEMORY DEVICE

DECISION ON PETITION UNDER 37 C.F.R. 1.103(a) FOR SUSPENSION OF EXAMINATION

The Second Petition for Suspension of Examination under 37 C.F.R. § 1.103(a) filed on July 16, 2010, is hereby treated as a First Request for Suspension, since the First Petition that was filed on January 13, 2010 was dismissed in the Petition decision mailed on July 16, 2010. This paper provides the decision on the petition filed on July 16, 2010, under 37 C.F.R. § 1.103(a) for suspension of examination for a period of 6 months.

The Petition is **GRANTED.**

Applicable Prosecution History

Jul 09, 2007	Application Filed.
Jan 13, 2010	FAOM Mailed.
Jan 13, 2010	Instant Petition filed, requesting that examination of application be suspended in accordance with 37 CFR§1.103(a) for a period of 6 months.
Jun 14, 2010	Response to FAOM filed.
July 16, 2010	Decision mailed dismissing Petition.
July 16, 2010	Instant petition filed, requesting that examination of application be suspended in accordance with 37 CFR§1.103(a) for a period of 6 months.

RELIEF REQUESTED

The Applicant respectfully requests that examination of U.S. Patent Application No.: 11/774,989 (instant application) be suspended in accordance with 37 CFR §1.103(a) for a period of 6 months.

RULES AND PROCEDURES

37 CFR 1.103 States as follows:

37 CFR 1.103. Suspension of action by the Office.
(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

A review of the prosecution history reveals that no office action is outstanding. Therefore, the petition satisfies the requirement of 37 CFR 1.103(a) as outlined above.

Accordingly, the petition is **GRANTED**.

Action by the office is suspended in this application under 37 CFR § 1.103(a) for a period of 6 months from July 16, 2010. 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) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist,
Technology Center 2100, Work Group 2180

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.
11/774,989	07/09/2007	David B. Lection	1468/US	4245

49277 7590 09/03/2010

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

EXAMINER
FISHBURN, JOHN P

ART UNIT	PAPER NUMBER
2186	

DATE MAILED: 09/03/2010

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 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.
11428338	6/30/2006	MORRIS, ROBERT P.	I374/US

EXAMINER
MANO PADMANABHAN

ART UNIT	PAPER
2100	20100903

DATE MAILED:

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

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

Commissioner for Patents

The prosecution of this application has been suspended for a period of 6 months from JUly 16, 2010 (see Peition decision mailed out on august 24, 2010 in the instant application).

/Manorama Padmanabhan/
QAS, TC2100

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.
11/774,989	07/09/2007	David B. Lection	I468/US	4245

49277 7590 03/28/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
FISHBURN, JOHN P

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
03/28/2011	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

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

In re Application of: Lection et al.
Application No. 11/774,989
Attorney Docket No. I468/US
Filed: July 9, 2007
For: METHOD AND SYSTEMS FOR PROVIDING REMOTE STRAGE VIA A REMOVABLE MEMORY DEVICE

DECISION ON PETITION UNDER 37 C.F.R. 1.103(a) FOR SUSPENSION OF EXAMINATION

This paper provides the decision on the petition filed on January 21, 2011, under 37 C.F.R. § 1.103(a) for suspension of examination.

The Petition is **GRANTED.**

RULES AND PROCEDURES

37 CFR 1.103 States as follows:

37 CFR 1.103. Suspension of action by the Office.
(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

A review of the prosecution history reveals that no office action is outstanding. Therefore, the petition satisfies the requirement of 37 CFR 1.103(a) as outlined above.

Accordingly, the petition is **GRANTED**.

Action by the office is suspended in this application under 37 CFR § 1.103(a) for a period of 3 months from the date of mailing of this decision. 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. If the reason for initiating the suspension no longer exists, the suspension should be terminated immediately, even if the suspension period has not expired.

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) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist,
Technology Center 2100, Work Group 2180

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.
11/774,989	07/09/2007	David B. Lection	I468/US	4245

49277 7590 02/23/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
FISHBURN, JOHN P

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
02/23/2012	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/774,989 Filed: July 09, 2007 For: METHOD AND SYSTEMS FOR PROVIDING REMOTE STORAGE VIA A REMOVABLE MEMORY DEVICE	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 22 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 22 February 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

UNITED STATES 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

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Ronald E. PELRINE, et *al.*
Application No. 11/775,021
Filed: September 9, 2007
Attorney Docket No. **SRIN-N-A101.06-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 August 26, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **LEVINE BAGADE HAN, LLP** has been revoked by the assignee of the patent application on September 8, 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: **BAYER MATERIAL SCIENCE, LLC**
100 BAYER ROAD
PITTSBURGH, PA 15205

UNITED STATES 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.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Patent of Kass et al. :
Patent No. 7,894,849 :
Issued: February 22, 2011 :
Application No. 11/775,026 : ON APPLICATION FOR
Filed: July 9, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 12587-087001 / :
01773-00/U :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed April 21, 2011. Patentees request that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred eighty-nine (489) days.

The petition is **DISMISSED**.

Patentees argue that the Director erred in the calculation of patent term adjustment by subtracting from the period of B Delay a period of time that was not "consumed by continued examination of the application." The first Request for Continued Examination (RCE) was filed on July 14, 2010. On January 5, 2011, the Office mailed a Notice of Allowance. Patentees argue no continued examination took place during the 48 day period from January 5, 2011 (the mailing date of the Notice of Allowance) until February 22, 2011 (the date the patent issued). Thus, patentees argue 48 days should have been added to the 4 days accorded by the Director for the B Delay period (beginning July 10, 2010 and ending on July 13, 2010, the day before the first RCE was filed).

Patentees' argument has been considered, but has not been found to be persuasive. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does

not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)."

Per the language of 37 CFR 1.703(b)(1):

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

As stated above, the number of days beginning on the date a RCE was filed and ending on the issuance date of the patent are not included in the B Delay period. The maximum B Delay in this case is 4 days, which is the number of days beginning on July 10, 2010, the day after the date three years after application's the filing date, and ending on July 13, 2010, the day *before* the date the first RCE was filed. The filing of the first RCE cuts off accumulation of any additional period of adjustment for the over three year calculation. All days from the date the first RCE was filed to the date of issuance are not included, per 37 CFR 1.703(b)(1).

The patent term adjustment remains 441 days, which is the sum of 449 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 4 days of B Delay, reduced by 12 days of Applicant delay.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
AUG 25 2011
OFFICE OF PETITIONS

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

In re Patent of Kass et al.	:	FINAL AGENCY DECISION
Patent No. 7,894,849	:	ON
Issue Date: February 22, 2011	:	REQUEST FOR RECONSIDERATION
Application No. 11/775,026	:	OF
Filed: July 9, 2007	:	DECISION ON APPLICATION
Attorney docket: 12587-087001 /	:	FOR
01773-00/U	:	PATENT TERM ADJUSTMENT
For: MOBILE PERSONAL SERVICES PLATFORM FOR PROVIDING FEEDBACK		

This is a decision on the "RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT" filed June 24, 2011, requesting reconsideration of the decision of May 20, 2011, and requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) in the decision of May 20, 2011, be changed from 441 days to 489 days.

Patentees request that the decision on this renewed request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Abbott Biotherapeutics Corp. v. Kappos. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of the decision of May 20, 2011, is granted to the extent that the decision of May 20, 2011, has been reconsidered; however, the request for reconsideration is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 411 days indicated in the decision of May 20, 2011. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 and for purposes of seeking judicial review. *See* MPEP 1002.02.

BACKGROUND

On February 22, 2011, the above-identified application matured into U.S. Patent No. 7,894,849, with a revised patent term adjustment of 441 days. On April 21, 2011, Patentees timely submitted a petition for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 489 days. On May 20, 2011, the Office mailed a decision indicating the patent term adjustment is 441 days and affording Patentees with a 30 day/1 month period to contest the decision. Patentees timely filed the present petition on June 24, 2011. 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 (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on January 5, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 48 day period from January 5, 2011 (the mailing date of the Notice of Allowance) until February 22, 2011 (the date the patent was issued). As such, Patentees maintain that the "B delay" should include the 48 days and be increased from 4 to 52 days. Patentees conclude that the correct patent term adjustment is 489 days (the sum of 449 days of "A delay" and 52 days of "B delay" minus 12 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

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 4 days based on the application having been filed under 35 U.S.C. 111(a) on July 9, 2007 and the patent not having issued as of the day after the three year date, July 10, 2010, and a request for continued examination being filed on July 14, 2010. In other words, the 48-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

---

[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.

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

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

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

the United States) after the application filing date before an adjustment will accrue for "B delay."

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

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

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by

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

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.

---

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

[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.

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 14, 2010, and the patent issued by virtue of that request on February 22, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on January 5, 2011 and ending on February 22, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is **DENIED**.

The patent term adjustment remains 441 days, as indicated in the decision of May 20, 2011 and the issued patent.

Deposit account no. 06-1050 will be refunded the $200.00 petition fee submitted with the instant petition, as Patentees have previously paid the $200.00 petition fee on March 21, 2011.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Director, Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/28/11

TO SPE OF : ART UNIT 2166

SUBJECT : Request for Certificate of Correction for Appl. No.: 11775066 Patent No.: 7917490

CofC mailroom date: 04/13/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER

SPE

Art Unit 2166

UNITED STATES 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. : 7,708,969 B2
Ser. No. : 11/775,111
Inventor(s) : Won et al.
Issued : May 4, 2010
Title : METHOD OF FORMING METAL OXIDE
Docket No. : 8054S-381 (AX3043US/GJ)
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
www.uspto.gov

QUINTERO LAW OFFICE, PC
615 Hampton Dr, Suite A202
Venice, CA 90291

In re Application of	:	
Pao-Ju Hsieh et al.	:	DECISION ON REQUEST
Application No. 11/775,137	:	TO WITHDRAW
Filed: July 9, 2007	:	SUSPENSION OF ACTION
Attorney Docket No. : 10119691	:	
Title: BACKLIGHT MODULES FOR DISPLAY	:	

This is a decision on the Request, filed on June 12, 2011, requesting withdrawal of the suspension request under 37 CFR 1.103(c) filed on June 3, 2011, or in the alternative, termination of the requested suspension.

The request is GRANTED.

A final Office action was mailed on March 3, 2011, setting a shortened statutory period of three months for filing a response. A Request for Continued Examination (RCE) was filed on June 3, 2011. A request for suspension of action for a period of 3 (three) months was requested under 37 CFR 1.103(c). On June 12, 2011, the instant request was filed to withdraw the request for suspension or, in the alternative, to terminate suspension.

A change of purpose after the request for suspension of action and after the requisite fee has been paid cannot be granted without appropriate petition to waive the requirement of rules. Accordingly, the request is being treated as a request to end suspension of action and place the application on active status. The request is granted.

The suspension of action is hereby terminated and the application placed in active status.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-2319.

Mark Robinson, Supervisory Patent Examiner
Art Unit 2883, Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREGORY S. DUNCAN
3009 SOUTH DRIVE
ALLENTOWN PA 18103

MAILED
OCT 19 2010
OFFICE OF PETITIONS

In re Application of	:	
Gregory S. Duncan	:	
Application No. 11/775,180	:	DECISION ON PETITION
Filed: July 9, 2007	:	
Attorney Docket No. 00001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2010 and supplemented on October 8, 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 an amendment and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed July 8, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center Art Unit 3672 for appropriate action by the Examiner in the normal course of business.

/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

Patent No. : 7622975 B2
Application No.: 11/775376
Inventor(s) : Fadi Adel Hamdan
Issued : 11/24/2009
Attorney Docket No.: 070592

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error in the inventor's name since inventor's name (s) are printed solely in accordance with the Typewritten name (s), and since the error was the result of applicant's failure to comply With the requirement that the complete and correct name (s) be indicated on the Declaration or Oath, no correction is in order here under provisions of Rules 1.322, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX

By Mail: Commissioner of Patent and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (571) 272-3218
ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted. The fee for Certificate of Correction under 37 CFR 1.323 (required fee currently $100). The patentee will be entitled for Certificate of Correction, after the petition is granted.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 05/16/2011

Address: Nicholas J. Pauley
QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714

ts

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCK
126 East Lincoln Ave
RY60-30
Rahway, NJ 07065

MAILED
FEB 28 2011
OFFICE OF PETITIONS

In re Application of :
Ting, et al. :
Application No. 11/775,383 : ON APPLICATION FOR
Filed: July 10, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. **AL06494US01**

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705(b)", filed January 25, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred and seventeen (917) days, not six hundred and six (606) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: 04/08/11

Patent No. : 7909438 B2
Ser. No. : 11/775,424
Inventor(s) : **Lee , ' et al.**
Issued : **March 22, 2011**
Title : Piezo-electric type inkjet printhead
Docket No. : **411-1082**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON DC 20006

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 23 2011
OFFICE OF PETITIONS

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

In re Patent No. 7,909,438 :
Issue Date: March 22, 2011 :
Application No. 11/775,424 : ON PETITION
Filed: July 10, 2007 :
Attorney Docket No. 411-1082

This is a decision on the petition filed April 21, 2011, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHLUMBERGER OILFIELD SERVICES
10001 RICHMOND AVENUE
IP ADMINISTRATION CENTER OF EXCELLENCE
HOUSTON TX 77042

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Yang, et al.	:	
Application No. 11/775,435	:	ON PETITION
Filed: July 10, 2007	:	
Attorney Docket No. 24.0978	:	

This is in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed July 20, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed January 7, 2011, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on February 24, 2011. However, by Advisory Action mailed March 9, 2011, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply with an extension of time having been received, the application became abandoned on April 8, 2011. The Office mailed a Notice of Abandonment on July 19, 2011.

With the instant renewed petition, applicants have paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2858 for consideration of the Amendment, filed July 20, 2011.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Guntin Meles & Gust, PLC (Mot)
304 Indian Trace #750
Weston FL 33326

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of :
Hosame Abu-Amara :
Application No. 11/775,632 : DECISION ON PETITION
Filed: July 10, 2007 :
Attorney Docket No. CS30246RLABU-AMARA335 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 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 January 29, 2010. A Notice of Abandonment was mailed on January 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received August 11, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Gary J. Cunningham
600 North US Highway 45
Libertyville, IL 60048

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.
11/775,638	07/10/2007	John Jason Buysman	A92.12-0090	5359

103552 7590 03/12/2012
AMS Research Corporation
C/O Westman, Champlin & Kelly, P.A.
900 Second Avenue South
Suite 1400
Minneapolis, MN 55402-3244

EXAMINER
DINGA, ROLAND

ART UNIT	PAPER NUMBER
3766	

MAIL DATE	DELIVERY MODE
03/12/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AMS Research Corporation
C/O Westman, Champlin & Kelly, P.A.
900 Second Avenue South
Suite 1400
Minneapolis MN 55402-3244

In re Application of:
BUYSMAN, JOHN JASON et al
Serial No. 11/775,638
Filed: July 7, 2007
Docket: A92.12-0090
Title: SYSTEMS AND METHODS FOR IMPLANTING TISSUE STIMULATION ELECTRODES IN THE PELVIC REGION

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition and request under 37 CFR 1.59(b), filed February 14, 2012 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) has been paid.

In the petition, the petitioner states that an Information Disclosure Statement citing US Pat. 6641525 was erroneously filed on February 14, 2012. Petitioner requests the erroneously filed IDS (a total of four pages information) be expunged.

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has unintentionally filed the Information Disclosure Statement on February 14, 2012, the four-page Information Disclosure Statement has been blocked from public view in the Public Pair system.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Andrew Wang for

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Moore & Hansen, PLLP
225 South Sixth Street- Suite 4850
Minneapolis, MN 55402

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of :
Adam J. Koffler, et. al. :
Application No. 11/775,648 : ON PETITION
Filed: July 10, 2007 :
Attorney Docket No. K41-002-01-US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on June 25, 2009. A Notice of Abandonment was mailed January 21, 2010

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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[1]; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3673 for review of the amendment filed 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

[1] It is also noted that petitioner filed an Information Disclosure Statement (IDS) on August 18, 2010.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120322

DATE : March 22, 2012

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 8,055,241

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:

/RAFAEL PÉREZ-GUTIÉRREZ/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application	:	
Dean Iverson Sprolès	:	DECISION ON PETITION
Application No. 11/775,660	:	TO WITHDRAW
Filed: July 10, 2007	:	FROM RECORD
Attorney Docket No. 78372/1070	:	

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 **DISMISSED**.

A review of the file record indicates that Customer Number 21186 was revoked by the assignee of record. A new Power of Attorney was filed on January 6, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will be directed to the current correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STOEL RIVES LLP – SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of Dean Iverson Sproles Application No. 11/775,660 Filed: July 10, 2007 Attorney Docket No. 78372/1070	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 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 Samuel E. Webb on behalf of all the practitioners of record associated with Customer Number 32642.

Customer Number 32642 has been withdrawn as attorney from record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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.

A. Kelley Collier

Alicia Kelley-Collier
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
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
11/775,660	07/10/2007	Dean Iverson Sproles	78372/1070

CONFIRMATION NO. 5410

POWER OF ATTORNEY NOTICE

32642
STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

OC000000048394638

Date Mailed: 06/23/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/17/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/akelley-collier/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JAN 26 2011
OFFICE OF PETITIONS

BAKER & DANIELS LLP- DOW AGROSCIENCES
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

In re Application of
Scott B. Bintrim, et al.
Application No. 11/775,663
Filed: July 10, 2007
Attorney Docket No. DAS-P0101-US-04

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 25, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 25, 2010. Accordingly, the date of abandonment of this application is November 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Patent No. 7,828,998 :
Issue Date: November 9, 2010 :
Application No. 11/775,671 : ON PETITION
Filed: July 10, 2007 :
Attorney Docket No. 34955.144 :

This is a decision on the petition filed December 21, 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 April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STAINBROOK & STAINBROOK, LLP
412 AVIATION BOULEVARD
SUITE H
SANTA ROSA CA 95403

MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Application of	:	
James P. Barrett	:	
Application No. 11/775,831	:	DECISION ON PETITION
Filed: July 10, 2007	:	
Attorney Docket No. **01163.P1US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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 2612 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

Ramesh Krishnamurthy
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.
11/776,001	07/11/2007	Anton Arnold Van Der HEIDEN	1458-009	6024

32905 7590 08/02/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
FOX, DAVID T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
08/02/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 0 2 2010

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	:
Anton Arnold van der Heiden	:
Serial No.: 11/776,001	: PETITION DECISION
Filed: July 11, 2007	:
Attorney Docket No.: **1458-009**	

This is in response to the petition under 37 CFR § 1.59(b), filed July 22, 2010, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on July 22, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,001	07/11/2007	Anton Arnold Van Der HEIDEN	1458-009	6024

32905 7590 07/21/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
FOX, DAVID T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
07/21/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUL 21 2011

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	:
Anton Arnold Van der Heiden	: PETITION DECISION
Serial No.: 11/776,001	:
Filed: July 11, 2007	:
Attorney Docket No.: **1458-009**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed July 18, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on July 22, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/776,001	07/11/2007	Anton Arnold Van Der HEIDEN	1458-009	6024

32905 7590 07/26/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
FOX, DAVID T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
07/26/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 20 2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	
Anton Arnold Van der Heiden	: PETITION DECISION
Serial No.: 11/776,001	
Filed: July 11, 2007	
Attorney Docket No.: **1458-009**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed July 18, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on July 22, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/776,008	07/11/2007	Anton Arnold Van Der HEIDEN	1458-010	6036

32905 7590 08/23/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
FOX, DAVID T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
08/23/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

AUG 2 3 2010

In re Application of:	:
Anton Arnold van der Heiden	:
Serial No.: 11/776,008	: PETITION DECISION
Filed: July 11, 2007	:
Attorney Docket No.: **1458-010**	

This is in response to the petition under 37 CFR § 1.59(b), filed July 28, 2010, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on July 28, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,008	07/11/2007	Anton Arnold Van Der HEIDEN	1458-010	6036

32905 7590 07/26/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
FOX, DAVID T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
07/26/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUL - 0 2011 JUL 26 2011

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	
Anton Arnold Van der Heiden	PETITION DECISION
Serial No.: 11/776,008	
Filed: July 11, 2007	
Attorney Docket No.: **1458-010**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed July 22, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on July 28, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/776,013	07/11/2007	Anton Arnold Van Der Heiden	1458-011	6048

32905 7590 08/23/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
FOX, DAVID T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
08/23/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

AUG 2 3 2010

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	:
Anton Arnold van der Heiden	:
Serial No.: 11/776,013	: PETITION DECISION
Filed: July 11, 2007	:
Attorney Docket No.: 1458-011	

This is in response to the petition under 37 CFR § 1.59(b), filed July 28, 2010, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on July 28, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is DISMISSED. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/776,013	07/11/2007	Anton Arnold Van Der Heiden	1458-011	6048

32905 7590 09/20/2011
JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

EXAMINER
FOX, DAVID T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
09/20/2011	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):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 20 2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:	:
Anton Arnold Van der Heiden	: PETITION DECISION
Serial No.: 11/776,013	:
Filed: July 11, 2007	:
Attorney Docket No.: **1458-011**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed July 18, 2011, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the material submitted to the Patent Office on July 28, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/
Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Heinelt et al.	:	
Application No. 11/776,041	:	ON APPLICATION FOR
Filed: July 11, 2007	:	PATENT TERM ADJUSTMENT
Docket No. DE 2005/003 US CNT	:	

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed September 22, 2010. Applicants request the PTA determination for the above-identified application be corrected to six hundred eighteen days (618) days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **six hundred eighteen (618)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 22, 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 649 days. On September 22,2010, applicants submitted the instant correspondence in which applicants request the patent term adjustment be reduced for the delay associated with filing a response to the July 27, 2007 Notice to File Missing Parts of Nonprovisional Application ("Notice").

A review of the record reveals that the initial determination of patent term adjustment of 649 days is incorrect. The Office failed to enter a reduction for the reply to the July 27, 2007 Notice that was filed on November 27, 2007. Pursuant to 37 CFR

1.704(b), a period of reduction of 31 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, applicants failed to engage in reasonable efforts to conclude processing of the application by failing to reply to the Notice mailed July 27, 2007 within the three-month period provided for in 37 CFR 1.704(b). Applicants did not file a response until November 27, 2007. Accordingly, a period of reduction of 31 days is being entered for the period beginning on October 28, 2007, the day after the date that is three months after the date of mailing of the Notice, and ending on November 27, 2007, the date applicants' reply was filed.

In view thereof, the correct patent term adjustment at the time of mailing of the Notice of Allowance on June 22, 2010 is **six hundred eighteen (618) days** (649 days Office delay minus 31 days Applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation for U.S. Application No. 11/776,041

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

- Patent Guidance and General Info
- Codes, Rules & Manuals
- Employee & Office Directories
- Resources & Public Notices

Patent Searches

- Patent Official Gazette
- Search Patents & Applications
- Search Biological Sequences
- Copies, Products & Services

Other

- Copyrights
- Trademarks
- Policy & Law
- Reports

Patent Application Information Retrieval

Order Certified Application As Filed | Order Certified File Wrapper | View Order List

11/776,041 SUBSTITUTED 4-PHENYLTETRAHYDROISOQUINOLINES, PHARMACEUITCAL COMPOSITIONS COMPRISING THEM AND THERAPEUTIC METHODS FOR THEIR USE

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data | Foreign Priority | Published Documents | Address & Attorney/Agent

Patent Term Adjustment

Filing or 371(c) Date:	07-11-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	649
A Delays:	649	PTO Manual Adjustments:	-31
B Delays:	0	Applicant Delays:	0
C Delays:	0	Total PTA Adjustments:	618

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
47	11-19-2010	Adjustment of PTA Calculation by PTO		31	0
33	06-22-2010	Mail Notice of Allowance	649		-1
32	06-17-2010	Issue Revision Completed			0
31	06-17-2010	Document Verification			0
30	06-17-2010	Notice of Allowance Data Verification Completed			0
29	06-17-2010	Case Docketed to Examiner in GAU			0
28	06-10-2010	Notice of Allowability			0
27	07-11-2007	Information Disclosure Statement considered			0
21	09-25-2008	Case Docketed to Examiner in GAU			0
20	03-07-2008	Email Notification			0
19	03-06-2008	PG-Pub Issue Notification			0
18	02-08-2008	IFW TSS Processing by Tech Center Complete			0
17	07-16-2007	Request for Foreign Priority (Priority Papers May Be Included)			0
16	07-11-2007	Information Disclosure Statement (IDS) Filed			0
15	07-16-2007	Request for Foreign Priority (Priority Papers May Be Included)			0
14	07-11-2007	Information Disclosure Statement (IDS) Filed			0
13	12-14-2007	Application Dispatched from OIPE			0
12	12-01-2007	Email Notification			0
11	11-30-2007	Sent to Classification Contractor			0
10	11-30-2007	Filing Receipt - Updated			0
9	11-27-2007	Additional Application Filing Fees			0
8	11-27-2007	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0

5	07-16-2007	Cleared by OIPE CSR	0
4	07-16-2007	CASE CLASSIFIED BY OIPE	0
3	07-14-2007	IFW Scan & PACR Auto Security Review	0
2	07-11-2007	Information Disclosure Statement (IDS) Filed	0
1	07-11-2007	Initial Exam Team nn	0

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contact Center (UCC).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.*

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE CA 95076

MAILED

SEP 3 0 2010

OFFICE OF PETITIONS

In re Application of

Gary HARTMAN, et *al.*
Application No. 11/776,105
Filed: July 11, 2007
Attorney Docket No. **P2097**

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 26, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted a correspondence address change directing all future correspondence for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Inquires concerning either the examination or status of the application should be directed to the Technology Center at 571-272-1700.

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
www.uspto.gov

CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE, CA 95076

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of
Gary HARTMAN, et *al.*
Application No. 11/776,105
Filed: July 11, 2007
Attorney Docket No. **P2097**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 14, 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 Donald Boys, the sole attorney of record. Donald Boys has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed August 11, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **GARY HARTMAN**
2410 AIRLINE HIGHWAY
HOLLISTER, CA 95023

UNITED STATES 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.

TROP, PRUNER & HU, P.C.
1616 S. VOSS RD., SUITE 750
HOUSTON TX 77057-2631

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Lee :
Application No. 11/776,146 :
Filed: July 11, 2007 :
Attorney Docket No. ITL.2283US :
(P26222) :
Title: HARD HANDOVER PROTOCOL :
TO ACHIEVE EARLY MAC READINESS :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed December 9, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed April 8, 2010, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no responses were received. Accordingly, the above-identified application became abandoned on July 9, 2010. A notice of abandonment was mailed on November 19, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The

Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed a Request for Continued Examination (RCE) along with the required fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment 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 December 9, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Michelle Bartning et al :
Application No. 11/776,185 :
Filed: July 11, 2007 :
Attorney Docket No. PPC-5241USCIP

ON PETITION

This is a decision on the petition, filed December 3, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 22, 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 3735 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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Joo Yeon Cho	:	
Application No. 11/776,274	:	NOTICE
Filed: July 11, 2007	:	
Attorney Docket No. **312041US8**	:	

This is a notice regarding your request filed September 9, 2008, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES 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 12 2011
OFFICE OF PETITIONS

PATENT ADMINISTRATOR
OFFICE OF TECHNOLOGY TRANSFER
EMORY UNIVERSITY
1599 CLIFTON ROAD NE, 4TH FLOOR
ATLANTA, GA 30322

In re Application of	:	
Stefan Lutz et al	:	
Application No. 11/776,281	:	ON PETITION
Filed: July 11, 2007	:	
Attorney Docket No. 05031 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Correct Application Papers (Notice) mailed May 31, 2011. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the above-identified application became abandoned on August 1, 2011.

Telephone inquiries concerning this decision should be directed to Irvin Dingle 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

Paper No.

MAILED

NOV 10 2011

OFFICE OF PETITIONS

Fish & Richardson PC (BO)
P.O.Box 1022
Minneapolis MN 55440-1022

In re Patent No. 8,002,823	:	
Kuehling	:	DECISION ON
Issue Date: August 23, 2011	:	REQUEST FOR
Application No. 11/776,320	:	RECONSIDERATION OF
Filed: July 11, 2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10527-807001 / 06-00118	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed October 24, 2011, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred and ninety-eight (198) days to three hundred and six (306) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred and thirty (130) days is **GRANTED to the extent indicated herein.**

BACKGROUND

On August 23, 2011, the above-identified application matured into US Patent No. 8,002,823 with a patent term adjustment of 198 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.

Patentee disputes three issues:

1. Patentee asserts that one period of reduction should be reduced from six days to three days;

2. Patentee asserts that three additional periods of reduction should be assessed;

3. Patentee agrees that the over three-year period stops with the filing of a RCE, but argues that the three-year period should restart with the mailing of a notice of allowance.

Regarding the first item that is in dispute: the assessment of a six-day reduction that is associated with the July 9, 2009 response after the mailing of a non-final Office action:

Patentee disputes the period of reduction of six days entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b). This reduction has been reconsidered, and it is determined that entry of a six-day reduction for this reply timely filed pursuant to 35 U.S.C. § 21(b) is not warranted. Accordingly, the period of reduction of six days is being removed and a period of three days is being entered (July 3, 2009 fell on a Friday that was a federal holiday, and as such, July 6, 2009 was the next business day).

Regarding the second item that is in dispute: the assessment of three additional periods of reduction:

The Office agrees that a the submission of an Information Disclosure Statement (IDS) on July 9, 2010 warrants a reduction of two days, the submission of an IDS on November 15, 2010 warrants a reduction of 12 days, and the submission of an IDS on April 6, 2011 warrants a reduction of 14 days, each pursuant to 37 C.F.R. § 1.704(c)(8).

Moreover, a review of the record reveals that four Information Disclosure Statements were filed subsequent to the mailing of the notice of allowance on April 13, 2011. An IDS was filed on May 18, 2011 and a notice of non-compliant information disclosure statement was mailed six days later on May 24, 2011. An IDS was filed on July 1, 2011 and an Office communication was mailed 18 days later on July 19, 2011. An IDS was filed on July 15, 2011 and an Office communication was mailed 13 days later on July 28, 2011. An IDS was filed on August 16, 2011, and this patent issued seven days later on August 23, 2011. It follows that these submissions warrant reductions of seven, 28 (the reductions that are associated with the Information Disclosure statements that were filed on July 1, 2011 and July 15, 2011 overlap between July 15, 2011 and July 19, 2011, such that the

total reduction that is associated with these two submissions is 28 days), and eight days, respectively, pursuant to 37 C.F.R. § 1.704(c)(10). A reduction of 43 days is being entered. Regarding this 43-day reduction, 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.

Regarding the second calculation that is in dispute: whether the over three-year period that has ceased with the filing of a RCE should restart upon the mailing of a notice of allowance:

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 period not included in the B-delay for "any time consumed by continued examination of the application requested by the applicant under section 132(b)." See U.S.C. 154(b)(1)(B)(i). **The Office maintains that the entire period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period.** As such, there is no over three-year period, since the first RCE was filed on November 13, 2009, which is prior to the three-year anniversary of the application's filing date on July 11, 2010.

Patentee argues that the 132-day[1] period between the mailing of the notice of allowance on April 13, 2011 and the issuance of the patent on August 23, 2011 should be included in the period of B-delay, as this time "was not 'consumed by continued examination of the application."[2] As such, Patentee argues that the over three-year period begins with the closure of examination via the mailing of a notice of allowance on April 13, 2011 and ends on August 23, 2011 with the issuance of the patent.

Patentee's argument has been considered, but not found persuasive. 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

[1] Patentee has miscalculated this period to constitute 133 days.
[2] Petition, page 3.

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.

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"[3] 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

[3] Id.

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, 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)[4]. 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

[4] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it

subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (*i.e.*, until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[5] 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

[5] 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).

It follows that the patent term adjustment totals 130 (204 examination delay plus 0 B delay minus 74[6] applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. To the extent that Patentees dispute the effect of the RCE cutoff on B delay, 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.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile.[9] Registered

---

[6] 3 + 2 + 14 + 12 + 43 = 74.

[7] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

[8] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred and thirty (130) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

[9] (571) 273-8300: please note this is a central facsimile number.
[10] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,002,823 B2

DATED : **August 23, 2011** **DRAFT**

INVENTOR(S) : Kuehling

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 198 days

Delete the phrase "by 198 days" and insert – by 130 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

Paper No.

MAILED
MAY 16 2011
OFFICE OF PETITIONS

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN TX 78759

In re Application of	:	
O'Neil et al.	:	
Application No. 11/776,353	:	DECISION ON RENEWED PETITION
Filed: July 11, 2007	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(a)
RPS920070098US1	:	
Title: METHOD FOR PRE-HEATING	:	
HIGH POWER DEVICES TO ENABLE	:	
LOW TEMPERATURE START-UP AND	:	
OPERATION	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(a), submitted on April 21, 2011, seeking the revival of the above-identified application.

The renewed petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 16, 2009, which set a shortened statutory period for reply of three 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 October 17, 2009. A notice of abandonment was mailed on January 25, 2010.

The Relevant Portion of the MPEP

Section 711.03(c)(I)(A) sets forth, *in pertinent part*:

> 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** (emphasis added).
>
> 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.

Procedural History and Analysis

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on May 13, 2010, and was dismissed via the mailing of a decision on June 14, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, 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.

The decision on the original petition indicated that requirements (1) and (2) of Rule 1.137(a) had been satisfied, and that the fourth requirement is not applicable, as a terminal disclaimer is not required.[1] The decision on the original petition set a two-month period for response.

---

1 See Rule 1.137(d).

With this renewed petition, Petitioner has explained that he intended to submit a timely response to the decision on the original petition, however on August 16, 2010, he inadvertently filed the response in the wrong application (the submission identifies the petition as being associated with application serial number 11/868,180). Accordingly, the Office properly associated the submission with application number 11/868,180, pursuant to Petitioner's instructions, and application number 11/868,180 was revived via the mailing of a decision on March 15, 2011.

The decision on the original petition indicated, *in pertinent part*:

> "…Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.
>
> First, Petitioner has not provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO which establishes that the docketing system is sufficiently reliable.
> More specifically, Petitioner has included two statements of facts which establish that when an Office action is received, a physical copy of the correspondence is placed into a "physical file folder" that is given to the responsible attorney, and the correspondence is also docketed into an "electronic docketing system."[2] However, the petition does not explain how this docketing system serves to ensure that the correspondence recorded therein is responded to in a timely manner:
>
> - **Once the responsible attorney has possession of the "physical file folder" which contains the Office correspondence, what does he or she do with the same, *i.e.* how does he or she make sure that the matter is handled in a timely manner?**
>
> - The Filipowsky declaration of facts indicates that the declarant enters "all relevant information about the correspondence into the firm's electronic docketing system."[3] **For what purpose is this information input into the electronic docketing system: does this electronic docketing system also generate reports that are distributed to the responsible attorney? Does it generate periodic reminders prior to the due dates? If so, are these reminders distributed to the responsible attorney?**
>
> Second, Petitioner has not provided a copy of the record(s) used by the practitioner where the allegedly non-received non-final Office action would have been entered had it been received (other than the aforementioned master docket)."
>
> Decision on original petition, pages 3-4. Emphases added.

---

2 Petition, page 3 and Filipowsky declaration of facts, paragraph 3.
3 Filipowsky declaration of facts, paragraph 3.

With this renewed petition, Petitioner has included a copy of the individual docket report that is associated with this particular application.[4] However, the renewed petition does not appear to address the deficiency which appears above in bold text. Petitioner has explained that had the allegedly non-received correspondence been received from the Office, "a due date of October 16, 2009, would have been listed under the column entitled 'Due Date' and the associated 'Notes' would have stated 'Response to Office Action due, unless otherwise no."[5] However, it does not appear that Petitioner has explained what the responsible attorney does with the physical file folder once he/she receives the same, and whether the electronic docketing system generates reports and periodic reminders that are distributed to the responsible attorney.

It follows that the third requirement of Rule 1.137(a) remains unsatisfied.

Any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[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.

---

4 Appendix I, submitted with this renewed petition. See also renewed petition, page 4.
5 Renewed petition, page 5.
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

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[10] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MAILED
AUG 15 2011
OFFICE OF PETITIONS

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN TX 78759

In re Application of	:	
O'Neil et al.	:	
Application No. 11/776,353	:	DECISION ON SECOND
Filed: July 11, 2007	:	RENEWED PETITION
Attorney Docket No.:	:	PURSUANT TO
RPS920070098US1	:	37 C.F.R. § 1.137(a)
Title: METHOD FOR PRE-HEATING	:	
HIGH POWER DEVICES TO ENABLE	:	
LOW TEMPERATURE START-UP AND	:	
OPERATION	:	

This is a decision on the second renewed petition pursuant to 37 C.F.R. § 1.137(a), submitted on July 22, 2011, seeking the revival of the above-identified application.

The second renewed petition pursuant to 37 C.F.R. § 1.137(a) is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 16, 2009, which set a shortened statutory period for reply of three 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 October 17, 2009. A notice of abandonment was mailed on January 25, 2010.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on May 13, 2010, and was dismissed via the mailing of a decision on June 14, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, 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.

The decision on the original petition indicated that requirements (1) and (2) of Rule 1.137(a) had been satisfied, and that the fourth requirement is not applicable, as a terminal disclaimer is not required.[1] The decision on the original petition set a two-month period for response.

A renewed petition pursuant to 37 C.F.R. § 1.137(a) was filed on April 21, 2011, along with a copy of the individual docket report that is associated with this particular application.[2] The renewed petition was dismissed via the mailing of a decision on May 16, 2011.

With this second renewed petition, Petitioner has indicated that the "electronic docketing system generates a monthly and a weekly report of all pending matters for each attorney" as well as e-mail reminders which are sent to the responsible attorney on a periodic basis both prior and subsequent to the due date.[3] Petitioner has further established that both the docket report and the physical file are brought to the responsible attorney, who "places the office communication in queue for completion ahead of the due date indicated on the docket report."[4]

It follows that the third requirement of Rule 1.137(a) has been satisfied.

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

---

1 See Rule 1.137(d).
2 Appendix I, submitted with the renewed petition. See also renewed petition, page 4.
3 Second renewed petition, page 4.
4 Id.

the Examiner of this decision, so that the amendment that was received on May 13, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
APR 13 2011
OFFICE OF PETITIONS

ETHERTON LAW GROUP, LLC
2010 E. UNIVERSITY DRIVE, SUITE 25
TEMPE, AZ 85281

In re Application of
Daniel Oberan, et al.
Application No. 11/776,382
Filed: July 11, 2007
Attorney Docket No.: 531-003

ON PETITION

This is a decision in response to the petition, filed February 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed May 21, 2010. A Notice of Abandonment was mailed on January 4, 2011. On February 14, 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 amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2887 for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES 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.

OSHA, LIANG LLP / SMITH
TWO HOUSTON CENTER
909 FANNIN STREET, SUITE 3500
HOUSTON TX 77010

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Eyre et al.	:	DECISION ON REQUEST
Application No. 11/776,389	:	FOR RECONSIDERATION OF
Filed: July 11, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 05516/394004	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)" filed December 8, 2011. Applicants request that the initial determination of patent term adjustment listed on the notice of allowance in the above-identified application patent be changed to reflect five hundred ninety-four (594) days of patent term adjustment.

The application for patent term adjustment at the time of the mailing of the notice of allowance is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred fifty-two (552) days. A copy of the updated PALM screen is enclosed.

On November 29, 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 360 days. The instant application for

patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants contend that the 236 day reduction for the filing of the IDSs on May 4, 2010 and January 28, 2011 respectively after replies had been filed on January 27, 2010 and September 13, 2010 respectively, should be removed because both IDSs contained the certification in accordance with 37 CFR 1.704(d) that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Preliminarily, it is noted that the reduction for applicant delay for the IDSs cited by applicant is 234 days (97 days and 137 days), not 236 days. Regardless, a review of the IDSs confirms that both contained a § 1.704(d) statement (on page 2 of an accompanying transmittal). Accordingly, entry of periods of reduction of 97 days and 137 days were not warranted and are being removed.

However, it is noted that another Information Disclosure Statement was filed on March 12, 2010. A review of that IDS does not reveal that it contained the certification under 37 CFR 1.704(d). As such, a period of reduction pursuant to 37 CFR 1.704(c)(8) of 44 days (for the period beginning on January 28, 2010 and ending on March 12, 2010) is being entered.

With regard to this 44-day reduction for the filing of the March 12 IDS, applicants are advised that effective December 1, 2011, § 1.704(d) is amended to change "any communication from a foreign patent office in a counterpart application" to "any communication from a patent office in a counterpart foreign or international application or from the Office," and to add this definition "a communication that was issued by a patent office in a counterpart foreign or international application or by the Office." See Revision of Patent Term Adjustment Provisions Relating to Information Disclosure Statements, 76 FR 74701 (December 1, 2011). If this final rule affects this

[1] PALM records indicate that the issue fee, due February 29, 2012, has not been received in the Office.

determination, applicants must timely file a request for reconsideration.

Finally, a review of the application also reveals that the period of reduction of 2 days pursuant to 37 CFR 1.704(b) for the filing of a reply to the Office action mailed June 11, 2010 on Monday, September 13, 2010 is not warranted. Pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b), this period is correctly calculated as 0 days. Entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. It is noted that September 11, 2010 was a Saturday. Thus, the reply was timely filed on the following Monday. The period of reduction of 2 days is being removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 552 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

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) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11776389 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11776389

Application Filing Date	07/11/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	596
A Delays	596	PTO Manual Adjustment	192
B Delays	0	Applicant Delay (APPL)	236
C Delays	0	Total PTA (days)	552

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
125	12/17/2011		P028	Adjustment of PTA Calculation by PTO	2		0
123	12/15/2011		P028	Adjustment of PTA Calculation by PTO		44	0
122	12/15/2011		P028	Adjustment of PTA Calculation by PTO	137		0
121	12/15/2011		P028	Adjustment of PTA Calculation by PTO	97		0
110	11/29/2011	11/14/2011	MN/=.	Mail Notice of Allowance	15		100
109	11/25/2011		OAR	Office Action Review			0
108	11/25/2011		OAR	Office Action Review			0
107	11/25/2011		IREV	Issue Revision Completed			0
106	11/25/2011		DVER	Document Verification			0
105	11/25/2011		N/=.	Notice of Allowance Data Verification Completed			0
104	11/18/2011		EX.R	Reasons for Allowance			0
103	11/18/2011		CNTA	Allowability Notice			0
101	08/04/2011		FWDX	Date Forwarded to Examiner			0
102	07/14/2011		C614	New or Additional Drawing Filed			0
100	07/14/2011		A...	Response after Non-Final Action			0
99	04/15/2011		ELC_RVW	Electronic Review			0
98	04/14/2011		EML_NTF	Email Notification			0
97	04/14/2011	01/13/2011	MCTNF	Mail Non-Final Rejection	91		87
96	04/11/2011		CTNF	Non-Final Rejection			0
90	02/01/2011		INHY	case Inherited			0
89	02/01/2011		DOCK	Case Docketed to Examiner in GAU			0
88	01/31/2011		FWDX	Date Forwarded to Examiner			0
95	01/28/2011		IDSC	Information Disclosure Statement considered			0
91	01/28/2011	09/13/2010	EIDS.	Electronic Information Disclosure Statement		137	87
86	01/28/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
94	12/21/2010		IDSC	Information Disclosure Statement considered			0
85	12/21/2010		EIDS.	Electronic Information Disclosure Statement			0
84	12/21/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
83	10/06/2010		INHY	case Inherited			0
82	10/06/2010		DOCK	Case Docketed to Examiner in GAU			0
81	10/05/2010		P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
87	09/13/2010	09/11/2010	A...	Response after Non-Final Action		2	71
80	09/13/2010		DIST	Terminal Disclaimer Filed			0
79	07/30/2010		INHY	case Inherited			0
78	07/30/2010		DOCK	Case Docketed to Examiner in GAU			0
77	07/29/2010		INHY	case Inherited			0
76	07/29/2010		DOCK	Case Docketed to Examiner in GAU			0
93	07/15/2010		IDSC	Information Disclosure Statement considered			0
75	07/15/2010		EIDS.	Electronic Information Disclosure Statement			0
74	07/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
73	06/11/2010		ELC_RVW	Electronic Review			0
72	06/11/2010		EML_NTF	Email Notification			0
71	06/11/2010	05/27/2010	MCTNF	Mail Non-Final Rejection	15		51
70	06/07/2010		CTNF	Non-Final Rejection			0
64	05/04/2010		IDSC	Information Disclosure Statement considered			0
57	05/04/2010	01/27/2010	EIDS.	Electronic Information Disclosure Statement		97	51
56	05/04/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
63	03/12/2010		IDSC	Information Disclosure Statement considered			0
55	03/12/2010		M844	Information Disclosure Statement (IDS) Filed			0
53	03/12/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
52	02/25/2010		FWDX	Date Forwarded to Examiner			0
51	01/27/2010		ELC.	Response to Election / Restriction Filed			0
50	12/30/2009		ELC_RVW	Electronic Review			0
49	12/30/2009		EML_NTF	Email Notification			0
48	12/30/2009	09/11/2008	MCTRS	Mail Restriction Requirement	475		0.5
47	12/22/2009		CTRS	Restriction/Election Requirement			0
46	10/20/2009		EML_NTR	Email Notification			0
45	10/20/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
43	10/18/2009		C.AD	Correspondence Address Change			0
62	09/03/2009		IDSC	Information Disclosure Statement considered			0
44	09/03/2009		EIDS.	Electronic Information Disclosure Statement			0
41	09/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
40	08/21/2009		DOCK	Case Docketed to Examiner in GAU			0
61	08/12/2009		IDSC	Information Disclosure Statement considered			0
42	08/12/2009		EIDS.	Electronic Information Disclosure Statement			0
39	08/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0

38	05/12/2009	DOCK	Case Docketed to Examiner in GAU	0
37	05/01/2009	TI1050	Transfer Inquiry to GAU	0
36	04/30/2009	TI1050	Transfer Inquiry to GAU	0
35	04/20/2009	TI1050	Transfer Inquiry to GAU	0
34	04/14/2009	CLSS	CASE CLASSIFIED BY OIPE	0
33	02/11/2009	TI1050	Transfer Inquiry to GAU	0
30	01/26/2009	MPTDI	Mail-Petition Decision - Dismissed	0
29	01/23/2009	PTDI	Petition Decision - Dismissed	0
32	01/14/2009	A.PE	Preliminary Amendment	0
60	12/22/2008	IDSC	Information Disclosure Statement considered	0
31	12/22/2008	EIDS.	Electronic Information Disclosure Statement	0
27	12/22/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
59	12/11/2008	IDSC	Information Disclosure Statement considered	0
28	12/11/2008	PET.	Petition Entered	0
26	12/11/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
25	09/08/2008	PA..	Change in Power of Attorney (May Include Associate POA)	0
23	09/05/2008	PA..	Change in Power of Attorney (May Include Associate POA)	0
24	09/04/2008	C.AD	Correspondence Address Change	0
22	07/23/2008	PA..	Change in Power of Attorney (May Include Associate POA)	0
21	12/13/2007	PG-ISSUE	PG-Pub Issue Notification	0
20	11/29/2007	TI1050	Transfer Inquiry to GAU	0
19	10/17/2007	W525	Withdraw Flagged for 5/25	0
18	10/17/2007	W525	Withdraw Flagged for 5/25	0
17	10/15/2007	F525	Flagged for 5/25	0
16	10/15/2007	F525	Flagged for 5/25	0
15	09/27/2007	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
10	09/20/2007	OIPE	Application Dispatched from OIPE	0
8	09/07/2007	COMP	Application Is Now Complete	0
9	09/06/2007	PGPC	Sent to Classification Contractor	0
14	08/29/2007	C614	New or Additional Drawing Filed	0
7	08/29/2007	ADDFLFEE	Additional Application Filing Fees	0
6	08/29/2007	CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems	0
5	07/26/2007	CPAP	Corrected Paper	0
4	07/16/2007	L194	Cleared by OIPE CSR	0
2	07/12/2007	SCAN	IFW Scan & PACR Auto Security Review	0
58	07/11/2007	IDSC	Information Disclosure Statement considered	0
13	07/11/2007	A.PE	Preliminary Amendment	0
12	07/11/2007	RCAP	Reference capture on IDS	0
11	07/11/2007	EIDS.	Electronic Information Disclosure Statement	0
3	07/11/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
1	07/11/2007	IEXX	Initial Exam Team nn	0
0.5	07/11/2007	EFILE	Filing date	0

Export to: Excel

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.
11/776,396	07/11/2007	James M. Holden	MTIPAT.28PCCC7	6698

27299 7590 11/15/2010
GAZDZINSKI & ASSOCIATES, PC
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO, CA 92127

EXAMINER
VU, VIET DUY

ART UNIT	PAPER NUMBER
2448	

MAIL DATE	DELIVERY MODE
11/15/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GAZDZINSKI & ASSOCIATES, PC
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO CA 92127

In re Application of: James M. HOLDEN et al.
Application No. 11/776,396
Filed: July 11, 2007
For: METHODS OF OPERATING A PORTABLE COMMUNICATIONS DEVICE WITH ENHANCED SECURITY

DECISION SUA SPONTE

This is a decision, *sua sponte*, withdrawing the Quayle Action mailed Sept 29, 2010.

RELEVANT PROSECUTION HISTORY

On March 30, 2010, a Final office action was mailed including a Provisional Double Patenting rejection over copending US application 11/776,406.

On June 02, 2010, a response to the Final rejection was filed canceling claims 44 and 46-64 and adding new claims 81-86.

On June 17, 2010, an Advisory action was mailed indicating that the amendment was entered, however, did not place the application in condition for allowance because a Terminal Disclaimer was required to overcome the Provisional Double Patenting.

On July 01, 2010, a Terminal Disclaimer was filed including one (1) month of extension of time under 37 CFR 1.136(a).

On August 05, 2010, the Terminal Disclaimer was disapproved for not including accepted language and not proper under 37.CFR 1.321 (the use of **Standard Form PTOSB/25** was suggested).

On Sept 20, 2010, *after the 6 month statutory time period expired*, a Quayle action was mailed.

RELEVANT PROSECUTION HISTORY

35 USC 133 states:

> **Upon failure of the applicant to prosecute the application within six months** after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, **the application shall be regarded as abandoned by the parties thereto**, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

MPEP 706.07(f) states in part that:

> III. (L) Formal matters which are identified for the first time after a reply is made to a final Office action and which require action by applicant to correct may be required in an *Ex parte Quayle* action if the application is otherwise in condition for allowance.

37 CFR 1.135 states:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application *to* **save it from abandonment** pursuant to paragraph (a) of this section **must include such complete and proper reply** as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

MPEP 714.03 .07(f) states in part that:

> The practice under 37 CFR 1.135(c) of giving applicant a time period to supply an omission in a bona fide reply **does not apply** after a final Office action. Amendments after final are approved for entry only if they place the application in condition for allowance or in better form for appeal.

DESCISION

A review of the application indicates that in the Advisory Action mailed June 17, 2010, the applicant was informed that the Reply filed June 2, 2010 failed to place the application in condition for allowance. Appropriate action was required by the applicant at that point to avoid abandonment of the application.

A proper reply to a Final rejection under 37 CFR 1.113 **must** include one of the following replies: (1) a timely amendment which *places the application in condition for allowance*; (2) a timely filed Notice of Appeal; or (3) a timely Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Unfortunately, none of the above mentioned conditions are presented in this case. It is incumbent upon the applicant to properly response to a Final office action. Risk of abandonment is always present when a reply to an after final does not place the application in condition for allowance.

Pursuant to 37 C.F.R. § 1.135(b), the proceedings on this application are considered terminated as of July 1, 2010 (3 months plus 1 month extension of time from the Final office action) - the Terminal disclaimer of July 01, 2010 was disapproved in August 5, 2010 - thus the instant application is abandoned ***by the operation of law*** and no Office action can be mailed after the date of Sept 2, 2010 (6 moths from the statutory time period under **35 USC 135**). The examiner does not have any authority to mail Office action or reset the time after the statutory time period.

For the above stated reasons, the Quayle action mailed Sept 29, 2010 is hereby **withdrawn and vacated**. The Quayle Action has been closed from public view as of mailing of this decision.

The application has been forwarded to examiner of record to issue a Notice of Abandonment.

Should Petitioner wish to revive the application, Petitioner must properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

Any inquiry concerning this decision should be directed to Kim Huynh, whose telephone number is (571) 272-4147.

/ Nancy Le/

Nancy Le, Director
Technology Center 2400
Network, Multiplexing, Cable and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GAZDZINSKI & ASSOCIATES, PC
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO CA 92127

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
James M. Holden et al.	:	
Application No. 11/776,396	:	DECISION ON PETITION
Filed: July 11, 2007	:	
Attorney Docket No. MTIPAT.28PCCC7	:	

This is a decision on the petitions under the unavoidable provisions of 37 CFR 1.137(a) and a petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2010, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The petition under 37 CFR 1.137(b) is **GRANTED**.

<u>As to the petition under 37 CFR 1.137(a):</u>

This application was held abandoned for failure to properly reply to the Final Office action mailed March 2, 2010. A reply was received on July 1, 2010 (along with a one month extension of time) in the form of a Terminal Disclaimer, but was not approved due to an informality. Therefore the application became abandoned on July 3, 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).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). *See* MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

A reply to the final rejection was received on July 1, 2010 (along with a one month extension of time). The reply was timely received, but was not proper due to an informality in the Terminal disclaimer as noted in the Terminal Disclaimer review decision prepared on November 12, 2010. The date of abandonment was July 3, 2010.

An advisory action was mailed was mailed on June 2, 2010 in which the applicant was informed that the Reply filed on June 2, 2010 failed to place the application in condition for allowance. A reply to this action along with extensions of time should have been received no later than September 2, 2010. The reply received on November 9, 2010 was after the expiration in this case. Therefore the case was properly abandoned.

A Quayle office action was mailed on September 20, 2010, which was after the 6 month statutory time period. This office action was vacated as of the petition decision mailed on November 15, 2010, and can no longer be considered under the provisions of 37 CFR 1.137(a).

Petitioner argues that the terminal disclaimer filed on July 1, 2010 was a proper terminal disclaimer. However, this argument is moot as the application is currently abandoned. It was applicant's responsibility to ensure that a proper response to a final Office action was timely filed. The Quayle action mailed September 29, 2010, which was subsequently withdrawn, was mailed after the instant application was already abandoned. It was applicant's responsibility to keep track of the response time to the final Office action and make sure a proper, timely response was filed. Why did applicant do nothing as the time period for response to the final Office action approached and was passed? The filing of the terminal disclaimer itself is not a proper response unless it is ultimately determined by the examiner to be acceptable. Any argument by petitioner as to whether or not it was acceptable is not convincing of unavoidable delay as applicant had other options available to him to respond to a final Office action such as a request for continued examination. For this reason, the petition is dismissed.

<u>As to the petition under 37 CFR 1.137(b):</u>

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Terminal Disclaimer, with the required fee of $140, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the Terminal Disclaimer is accepted as being unintentionally delayed.

As authorized the petition fee under 37 CFR 1.137(b) of $1,620 will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2448 for appropriate action by the Examiner in the normal course of business on the reply received November 9, 2010.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Kevin E. Smith et al.	:	
Application No. 11/776,459	:	DECISION ON PETITION
Filed: July 11, 2007	:	TO WITHDRAW
Attorney Docket No. 13279-1000	:	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 17, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, 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-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

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

MAILED

DEC 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Kevin E. Smith et al.	:	
Application No. 11/776,459	:	DECISION ON PETITION
Filed: July 11, 2007	:	TO WITHDRAW
Attorney Docket No. 13279-1000	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 6, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because a proper forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, 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.

According the assignment records, an assignment in this application was recorded on January 31, 2008. The request to change the correspondence address is to the first signing inventor, Kevin E. Smith. The inventors no longer have an interest in this case, unless there is an association with company Total Dentist Leasing, LLC. If this is not the case, a proper request would be: the change of correspondence address should be to the assignee and item (2) should be satisfied to grant this 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

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Application of	:	
Kevin E. Smith et al.	:	
Application No. 11/776,459	:	DECISION ON PETITION
Filed: July 11, 2007	:	TO WITHDRAW
Attorney Docket No. 13279-1000	:	FROM RECORD
	:	

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 6, 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 John May on behalf of all attorneys/agents associated with customer number 32914. All attorneys/agents associated with customer number 32914 have been withdrawn.

A statement under 37 CFR 3.73(b) was filed in parent application no. 11/326,875, showing a change of ownership in the application.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed. All future correspondence will be mailed to the first copied address.

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: Total Dentist, LLC
2 East Street Road
West Chester, PA 19382

cc: Kevin E. Smith
1003 Regimental Drive
West Chester, PA 19382

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
11/776,459	07/11/2007	Kevin E. Smith	132279-1000

CONFIRMATION NO. 6804

POWER OF ATTORNEY NOTICE

32914
GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

OC000000051922773

Date Mailed: 01/10/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

November 4, 2011

Patent Administrator
Emory University - Office of Tech Transfer
1599 Clifton Road NE, 4th Floor
1599-001-1AZ
Atlanta GA 30322

In re Application of	:	
Liotta, Dennis C. et. al	:	**DECISION ON PETITION**
Application No. 11/776,476	:	
Filed: 07/11/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 06134 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) November 26, 2007.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Weaver Austin Villeneuve & Sampson - YAH1
Attn: Yahoo!
P.O. BOX 70250
OAKLAND CA 94612-0250

MAILED
JAN 20 2012
OFFICE OF PETITIONS

In Re application of
Soren Riise et al.
Application No. 11/776,488
Filed: July 11, 2007
Attorney Docket No.
YAH1P096/Y02459US00

ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed December 16, 2011 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the amendment and transmittal, filed December 13, 2011, be expunged from the record. Petitioner states that the papers submitted were erroneously filed in the instant application and were meant for another application.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in a different application.

The expunged material has been removed from the official file.

In accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application.

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

APR 25 2011

OFFICE OF PETITIONS

CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
Robert Wallach et al.	:	
Application No. 11/776,507	:	DECISION ON PETITION
Filed: July 11, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **17246-003CT1**	:	

This is a decision on the petition, filed March 16, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

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 review of the file record discloses that petitioner did submit a nonpublication request under 35 U.S.C. 122(b). On March 16, 2011, petitioner submitted a Notification of Foreign Filing pursuant to 37 CFR 1.213(c). However, the Notification was not accompanied by the statement "I hereby **rescind** the previous nonpublication request" required by 37 CFR 1.213(b). Accordingly, the petition cannot be granted at this time. A PTO/SB/36 form for Rescission of Previous Nonpublication Request has been enclosed for petitioner's convenience.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: PTO/SB/36 Rescission of Previous Nonpublication Request Form

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUN 07 2011
OFFICE OF PETITIONS

CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Patent No. 7,949,556
Issue Date: May 24, 2011
Application No. 11/776,507
Filed: July 11, 2007
Attorney Docket No. **17246-003CT1**

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 06, 2011, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 08, 2010. 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,949,556 on May 24, 2011.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
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	11776566
Filing Date	12-Jul-2007
First Named Inventor	William Kunz
Art Unit	2177
Examiner Name	QUOC TRAN
Attorney Docket Number	320408.01
Title	MATH CALCULATION IN WORD PROCESSORS

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Eric Jorgenson, Reg.# 46,002/
Name	Eric Jorgenson
Registration Number	46002

UNITED STATES 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 26,2011

In re Application of :

William Kunz

Application No : 11776566

Filed : 12-Jul-2007

Attorney Docket No : 320408.01

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed September 26,2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JENNIFER R. KNIGHT
P.O. BOX 511
KINGSPORT, TN 37662-5075

MAILED
OCT 15 2010
OFFICE OF PETITIONS

In re Application of :
Larry Cates Windes et al :
Application No. 11/776,587 : ON PETITION
Filed: July 12, 2007 :
Attorney Docket No. 80412-01

This is a decision on the petition, filed October 15, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 13, 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 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application
Fong Pong
Application No. 11/776,652
Filed: July 12, 2007
Attorney Docket No. 18024US02

: DECISION 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 October 18, 2010. Applicant requests that the determination of patent term adjustment be corrected from 314 to 546 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JAN 05 2011

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application
Fong Pong
Application No. 11/776,660
Filed: July 12, 2007
Attorney Docket No. 18638US02

: DECISION 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 December 10, 2010. Applicant requests that the determination of patent term adjustment be corrected from 311 to 564 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120314

DATE : March 14, 2012

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction on Patent No.: 8034358

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:

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERICSSON CANADA INC.
PATENT DEPARTMENT
8400 DECARIE BLVD.
TOWN MOUNT ROYAL QC H4P 2N2 CA CANADA

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Suresh Krishnan :
Application No. 11/776,822 : ON PETITION
Filed: July 12, 2007 :
Attorney Docket No.: P23686US 1 :

This is a decision on the petition filed September 22, 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 January 8, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested within the extendable time allowed, this application became abandoned April 8, 2010. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The record reveals that a one month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $130.00 extension of time fee submitted with the petition on September 22, 2010, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-0301.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This matter is being referred to Technology Center 2467 for appropriate action on the amendment filed September 22, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLOCK TOWER LAW GROUP
2 CLOCK TOWER PLACE, SUITE 255
MAYNARD, MA 01754-2545

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of Robert W. Tedesco Application No. 11/776,830 Filed: July 12, 2007 Attorney Docket No. 07.0388	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 12, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Erik J. on behalf of all attorneys of record who are associated with customer No. 30948. All attorneys/agents associated with the Customer Number 30948 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed May 27, 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: ROBERT W. TEDESCO
44 CHURCH STREET
WINCHESTER, MA 01890

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
11/776,830	07/12/2007	Robert W. Tedesco	07.0388

CONFIRMATION NO. 7478

POWER OF ATTORNEY NOTICE

30948
CLOCK TOWER LAW GROUP
2 CLOCK TOWER PLACE, SUITE 255
MAYNARD, MA 01754-2545

OC000000042859822

Date Mailed: 08/02/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 13 2011

OFFICE OF PETITIONS

ROBERT L. STEARNS
SUITE 2000
38525 WOODWARD AV
BLOOMFIELD HILLS, MI 48304

In re Application of
Stephen Chapman, et al.
Application No. 11/776,853
Filed: July 12, 2007
Attorney Docket No.: 710130-039

ON PETITION

This is a decision in response to the petition, filed February 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed March 15, 2010. A Notice of Abandonment was mailed on January 13, 2011. On February 14, 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 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 3715 for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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.
11/776,867	07/12/2007	Robert P. Morris	1485/US	7541

49277 7590 02/04/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
HERNDON, HEATHER R

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
02/04/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES 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, Robert
Application No. 11/776,867
Filed: July 12, 2007
For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING A BROWSING MODE ASSOCIATION OF A LINK WITH BROWSED CONTENT**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 25, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on January 25, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

Vincent Trans
Quality Assurance Specialist, TC 2100
571-272-3613

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.
11/776,867	07/12/2007	Robert P. Morris	1485/US	7541

49277 7590 06/02/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
BLOOMQUIST, KEITH D

ART UNIT	PAPER NUMBER
2178	

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.

UNITED STATES 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, Robert
Application No. 11/776,867
Filed: July 12, 2007
For: **METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING A BROWSING MODE ASSOCIATION OF A LINK WITH BROWSED CONTENT**

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on May 9, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on May 9, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Quality Assurance Specialist, TC 2100

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.
11/776,867	07/12/2007	Robert P. Morris	1485/US	7541

49277 7590 12/22/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
BLOOMQUIST, KEITH D

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
12/22/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/776,867 Filed: July 12, 2007 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING A BROWSING MODE ASSOCIATION OF A LINK WITH BROWSED CONTENT	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 21 December 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 21 December 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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.
11/776,867	07/12/2007	Robert P. Morris	1485/US	7541

49277 7590 03/29/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
BLOOMQUIST, KEITH D

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
03/29/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/776,867 Filed: July 12, 2007 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING A BROWSING MODE ASSOCIATION OF A LINK WITH BROWSED CONTENT	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INVISTA NORTH AMERICA S.A.R.L.
THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON DE 19808

MAILED

OCT 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Garner, et al. :
Application No. 11/776,904 : ON PETITION
Filed: July 12, 2007 :
Attorney Docket No. PI1535USNA :
For: HYDROCYANATION OF 2-PENTENENITRILE

This is a decision on petitions, filed August 26, 2010, requesting (1) revival of the above-identified application under 37 CFR 1.137(b) and (2) deferral of issuance under 37 CFR 1.314.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.314 is **DISMISSED** as unnecessary.

This application became abandoned for failure to timely pay the issue fee and publication fee on or before March 8, 2010, as required by the Notice of Allowance and Fee(s) Due ("Notice"), mailed December 7, 2009. The date of abandonment is March 9, 2010. The Notice was available for viewing on December 7, 2009. A Notice of Abandonment was issued on March 24, 2010.

Applicants have submitted the issue fee, the publication fee, and a RCE, the required fee, and an IDS as the submission in reply to the March 8, 2010 Notice, an acceptable statement of the unintentional nature of the delay in responding to the March 8, 2010 Notice, and the petition fee. All requirements being met, the petition under 37 CFR 1.137(b) is *granted.*

Regarding the reply component of the petition: As stated in the July 20, 2010 decision on petition, the application could not be revived without payment of the issue and publication fees. Petitioners have submitted the issue and publication fees with the present petition. However, the RCE, accompanied by IDS, filed May 12, 2010 is the intended reply. Petitioners have obtained continued examination of their application.

Petitioners request deferral of issuance under 37 CFR 1.314. 37 CFR 1.114 provides a procedure under which an applicant may obtain continued examination of an application in which prosecution is closed (e.g., the application is under final rejection or a notice of allowance) by filing a submission and paying a specified fee. The filing of the RCE on May 12, 2010 withdrew the allowed status of the application and reopened prosecution. As the application is no longer

allowed, the petition to defer issuance is dismissed as inappropriate. The $130.00 fee submitted with the petition to defer issuance will be refunded to petitioners' deposit account.

After the mailing of this decision the application will be forwarded to Technology Center AU 1628 for consideration of the RCE and IDS filed on May 12, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/24/11

TO SPE OF : ART UNIT 2186

SUBJECT : Request for Certificate of Correction for Appl. No.: 11776948 Patent No.: 7809893

CofC mailroom date: 10/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 13 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved** — **All** changes apply.

☒ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: Proposed changes to claim 12 do not appear to be necessary since CoC does not appear to change anything for claim 12. As per claim 13, the proposed correction is fine and it should be entered.

/Matt Kim/ 2186

10/20/2011

SPE **Art Unit**

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,809,893 Page 1 of 1

APPLICATION NO.: 11/776,948

ISSUE DATE : October 5, 2010

INVENTOR(S) : David Koski et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 12, lines 48-63, in claim 12, delete "An apparatus comprising:
means for identifying a speculative set, the speculative set being arranged to identify at least a first element that is associated with a cache, wherein the at least first element has at least a first representation in the cache that is suitable for updating;
means for issuing a first request, the first request being arranged to request the at least first element identified in the speculative set from a data source; means for opening a channel to the data source;
means for obtaining the at least first element identified in the speculative set from the data source using the channel; and
means for updating the at least first representation associated with the at least first element identified in the speculative set in the cache."
and insert - - An apparatus comprising:
means for identifying a speculative set, the speculative set being arranged to identify at least a first element that is associated with a cache, wherein the at least first element has at least a first representation in the cache that is suitable for updating;
means for issuing a first request, the first request being arranged to request the at least first element identified in the speculative set from a data source;
means for opening a channel to the data source;
means for obtaining the at least first element identified in the speculative set from the data source using the channel; and
means for updating the at least first representation associated with the at least first element identified in the speculative set in the cache. - -, therefor.

Do not enter MK 10/20/

In column 13, line 3, in claim 13, delete "least" and insert - - at least - -, therefor.

OK to enter MK 10/20/201

Approved in part.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,809,893

No. of additional copies

Apple Inc.
1 Infinite Loop, MS 36-2PAT
Cupertino, CA 95014

Atty Docket No: P5123US1

MATTHEW KIM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/24/11

TO SPE OF : ART UNIT 2186

SUBJECT : Request for Certificate of Correction for Appl. No.: 11776948 Patent No.: 7809893

CofC mailroom date: 10/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Director/SPE response to 571-273-3421

Note: **Should the changes to claim 13 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved** — **All** changes apply.

☒ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: Proposed changes to claim 12 do not appear to be necessary since CoC does not appear to change anything for claim 12. As per claim 13, the proposed correction is fine and it should be entered.

/Matt Kim/ — 2186

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

LEVINE BAGADE HAN, LLP
2400 GENG ROAD
SUITE 120
PALO ALTO, CA 94303

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of
Ronald E. Pelrine, et al.
Application No. 11/777,036
Filed: July 12, 2007
Attorney Docket No. SRINNA11102

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 26, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Levine Bagade Han, LLP has been revoked by the assignee of the patent application on September 8, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MAILED
SEP 29 2011
OFFICE OF PETITIONS

Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis MO 63105

In re Application of	:	
Janssen et al.	:	DECISION
Application No. 11/777,140	:	ON APPLICATION FOR
Patent No. 7,998,322	:	PATENT TERM ADJUSTMENT
Filed: July 12, 2007	:	
Issued: August 16, 2011	:	
Atty Docket No. 64129112US01	:	
(27839-1422)	:	
Title: ULTRASONIC TREATMENT	:	
CHAMBER HAVING ELECTRODE	:	
PROPERTIES	:	

This is in response to the PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed on September 7, 2011. Patentee requests that the patent term adjustment be corrected from eight hundred and forty-two (842) days to eight hundred and fifty-one (851) days. Patentee contends that a single period of applicant delay was improperly assigned.

This petition pursuant to 37 C.F.R. § 1.705(b) is **DISMISSED AS UNTIMELY FILED.**

Should reconsideration of this petition be desired, Patentee is given **THIRTY (30) DAYS** to respond to this decision. No extension of time will be granted under 37 C.F.R. § 1.136(a).

RELEVANT STATUTE AND RULES

35 U.S.C. § 154(b)(3)(B) sets forth, *in toto*:

> Under the procedures established under subparagraph (A), the Director shall-

(i) make a determination of the period of any patent term adjustment under this subsection, and shall transmit a notice of that determination with the written notice of allowance of the application under section 151; and
(ii) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director.

37 C.F.R. § 1.705 sets forth, *in pertinent part*:

(a) The notice of allowance will include notification of any patent term adjustment under 35 U.S.C. 154(b).

(b) Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance…

(d) If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues (emphasis added).

OPINION

Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment *prior to the payment of the issue fee*.

On April 25, 2011, the Office mailed the initial determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is six hundred and eighty-five (685)

days. The issue fee payment was received in the Office on June 30, 2011. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended upon payment of the issue fee on June 30, 2011.

The patent issued on August 16, 2011.

Patentee gives no reason why the petition pursuant to 37 C.F.R. § 1.705(b) could not have been filed in a timely manner.

In view thereof, it is concluded that patent term adjustment of eight hundred and forty-two (842) days will not be reconsidered.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS IN 46282-0200

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Bakshy Akshaykirti CHIBBER	:	
Application No. 11/777,160	:	DECISION ON PETITION
Filed: July 12, 2007	:	TO WITHDRAW
Attorney Docket No. P01581US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 26, 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 Homer W. Faucett, III 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 Goodwyn
Petitions Examiner
Office of Petitions

cc: BAKSHY A. CHIBBER
15685 EMBERS DRIVE
MISHAWAKA, IN 46545

cc: HORNER W. FAUCETT, III
ICE MILLER LLP, ONE AMERICAN SQUARE
SUITE 2900
INDIANAPOLIS, IN 46282-0200

UNITED STATES 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. : 7892724 B2
Application No.: 11/777167
Inventor(s) : Shimko, et al.
Issued : 02/22/2011
Attorney Docket No.: P23150.00

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.

A certificate of correction will be issued for the remaining errors noted on the request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 03/17/2011

Address: G. Scott Dorland
Medtronic
IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

ts/md

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INNOVATION COUNSEL, LLP
21771 STEVENS CREEK BLVD, SUITE 200A
CUPERTINO, CA 95014

MAILED

AUG 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Keun Kyu SONG, et *al.*	:	
Application No. 11/777,174	:	DECISION GRANTING PETITION
Filed: July 12, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **KORY02530 US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 17, 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCANDREWS HELD & MALLOY LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,827,397	:	
McCoull, et al.	:	
Issue Date: November 2, 2010	:	DECISION ON
Application No. 11/777,180	:	PATENT TERM ADJUSTMENT
Filed: July 12, 2007	:	
Attorney Docket No. 18755US01	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 C.F.R. § 1.705(d))", filed January 3, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from five hundred twenty-four (524) days to five hundred twenty-six (526) days.

The application for patent term adjustment is **DISMISSED**.

On November 2, 2010, the above-identified application matured into U.S. Patent No. 7,827,397 with a patent term adjustment of 524 days. Patentees filed the instant application for patent term adjustment on January 3, 2011.

Patentees argue that the patent term adjustment should be 526 days, because the Office erred in according 2 days of Applicant delay pursuant to 37 CFR 1.704(b). The Office mailed a Notice of Allowance on June 25, 2010. Applicants paid the issue fee on September 27, 2010, made timely for purposes of avoiding abandonment by the fact that September 25, 2010 fell on a Saturday. See 37 CFR 1.7(a). Patentees argue that they should not be accorded any 1.704(b) delay for filing the issue fee on September 27, 2010.

Patentees' argument has been considered, but is not persuasive. Patentees were placed on notice pursuant to the Manual of Patent Examining Procedure that the date of filing shall be the date used for patent term adjustment calculations. MPEP 2731 states:

> the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period.

In view thereof, the correct determination of PTA at the time of issuance is **five hundred twenty-four (524)** days.

Receipt of the $200 fee under 37 C.F.R. §1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/777,191	07/12/2007	Kosuke Uchida	SUTOSH.160AUS	8105

7590 11/23/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2482	

NOTIFICATION DATE	DELIVERY MODE
11/23/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Menas et al.	:	DECISION ON PETITION
Application No. 11/777,217	:	TO WITHDRAW
Filed: July 12, 2007	:	FROM RECORD
Attorney Docket No. 115834	:	

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, 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 Polsinelli Shughart PC 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 Polsinelli Shughart PC 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 above until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed August 18, 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
www.uspto.gov

MAILED

SEP 29 2011

OFFICE OF PETITIONS

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of :
Monro :
Application No. 11/777,230 :
Filed: July 12, 2007 :
Attorney Dkt. No. 088245-3871 :
For: BLOCKING FOR COMBINATORIAL :
CODING/DECODING FOR ELECTRICAL :
COMPUTERS AND DIGITAL DATA :
PROCESSING SYSTEMS

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed September 23, 2011. Applicants request that the determination of patent term adjustment be corrected from four hundred seventy-two (472) days to one thousand two hundred twenty-nine (1,229) days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Application of	:	
Monro	:	
Application No. 11/777,239	:	ON APPLICATION FOR
Filed: July 12, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-3873	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed January 31, 2012. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand three hundred forty-one (1341) days, not one thousand twenty-seven (1027) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). 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 he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

[1] For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Donald M. Monro	:	
Application No. 11/777,256	:	ON APPLICATION FOR
Filed: 07/12/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
088245-3875	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)," filed on May 9, 2011, which is treated as an application for patent term adjustment under 37 CFR 1.705(b). Applicant submits that the patent term adjustment to be indicated on the patent should be increased from 885 days to 1075 days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

1 For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Young & Thompson
209 Madison Street
Suite 500
Alexandria, VA 22314

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of
Takayuki Kitahara
Application No. 11/777,308
Filed: July 13, 2007
Attorney Docket No. 8022-1163

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 2010, to revive the above-identified application.

A review of the record shows that a non-final Office action was mailed on December 24, 2009. In response, a Notice of Appeal and fee was filed on June 24, 2010. In this application, a Notice of Appeal and fee is not a proper response to the non-final Office action[1]. As such, this application was abandoned by operation of law and the present petition and fee is required for revival.

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. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2114 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

[1] The $540 Notice of Appeal fee was refunded on August 25, 2010.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 13, 2010

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/777352 Patent No.:_____

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

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: _____

12/17/10
JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jason Won Kim
1401 Marcello Dr.
San Jose CA 95131

MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of
Kim
Application No. 11/777,510
Filed: July 13, 2007
For: METHODS AND APARATUS FOR SECURING ACCESS TO COMPUTER LIBRARIES AND MODULES, THE SECMODULE FRAMEWORK

ON PETITION

This is in response to the petition, filed December 27, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On June 8, 2010, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on September 9, 2010, for failure to submit a timely response to the June 8, 2010 Office action. This decision precedes the mailing of a Notice of Abandonment.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to nonreceipt of the June 8, 2010 Office action. Specifically, petitioner states that the June 8, 2010 Office action was not received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the June 8, 2010 Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is pro-se, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must

explain the system for keeping track of patent matters - where he writes down due dates; how he knows replies are due, etc. In essence, petitioners must explain how he reminds himself of response due dates and show that the due date for the June 8, 2010 Notice was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after June 8, 2010, to demonstrate nonreceipt of the Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action or Notice, and where petitioner would have entered the receipt date of the Notice had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after June 8, 2010; the period when he would have received the Notice.

In the present petition, petitioner did not submit any documentary evidence, or an explanation of the method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the June 8, 2010 Office action. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the June 8, 2010 Notice accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to

the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the non-final Office action dated June 8, 2010.

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.
11/777,510	07/13/2007	Jason W. Kim		8693

7590 06/08/2010

Jason Won Kim
1401 Marcello Dr
San Jose, CA 95131

EXAMINER
LAGOR, ALEXANDER

ART UNIT	PAPER NUMBER
2491	

MAIL DATE	DELIVERY MODE
06/08/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	11/777,510	KIM, JASON W.	
	Examiner	Art Unit	
	ALEXANDER LAGOR	2491	

-- 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 13 July 2007.

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) 1-18 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) 1-18 is/are rejected.

7)☒ Claim(s) 1-4 and 8-12 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
(1) Field of the Invention.
(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

(a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

(b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

(c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

(d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).

(e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

(f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the

field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

The disclosure is objected to because of the following informalities:

Page 3 contains an appendix with page numbers that do not match the page numbers of the disclosure. Applicant is advised to follow guidelines stated above.

Page 22 contains list of references should be listed/cited in the Information Disclosure Statement (IDS) PTO-1449.

Page 16, Applicant's specification (Page 16, Paragraph 7) contains an embedded hyperlink and/or other form of browser-executable code. Applicant is

required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Appropriate correction is required.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claims 1 – 4 and 8 – 12 are objected to because of the following informalities:

Individual claims need to be sentences that start with capitalized letters and end with a period.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 7 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 7, lines 2-4 and claim 16, lines 1-3 respectively with limitation " random splitting, obfuscation, function renaming, control flow morphing can be applied in either inpart or whole to any function..." does describe in Applicant's specification.

The disclosure was thoroughly searched for any indication that random splitting, obfuscation, function renaming, control flow morphing was applied to any function, procedure, method or object dispatched within a SecModule.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 18 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 1 – 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because

Claims 1, 2 and 18 claim both a method and a system (an apparatus) and the are therefore considered indefinite under 35 U.S.C. 112, second paragraph (*Holdings v. Amazon.com, Inc.*, 430 F.2d 1377, 1384, 77 USPQ2d 1140, 1145 (Fed. Cir. 2005).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 2 are directed to neither a "process" nor a "machine", but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C 101 which is drafted so as to set forth the statutory classes of invention in the alternative only.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 6, 8 – 15 and 17 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by "Base Line Performance Measurements of Access Controls for Libraries and Modules" by Jason W. Kim and Vassilis Prevelakis (hereinafter Kim).

As per claim 1, Kim discloses that this invention comprises of methods and systems for the

- creation
- protection
- distribution
- use and efficient execution

of Secured Libraries and Modules (ref: a SecModule) by any interested party (ref: SecModule implementor) (Abstract, Pages 1 – 7, Sections 1 – 4).

As per claim 2, Kim discloses the methods and systems described in this invention can be used for the

- creation
- specification
- testing
- enforcement
- modification of arbitrary security policies that govern how the Secured Module (ref. SecModule) referred to in claim 1 can be accessed and/or by a user of the Secured

Module (ref: the "client"), The security policy is compiled into the application or library such that is verifiable, computable, and enforceable by SecModule (Pages 4 – 7, Sections 4 – 4.5).

As per claim 3, Kim discloses the methods in claim 1 to guarantee the contents of the Secured Module (ref SecModule) referred to always remain securely encrypted, and thus tamperproof to the limits of the encryption technologies used (Page 6, Section 4.1).

As per claim 4, Kim discloses the methods in claim 1 to guarantee Secured Module (ref SecModule) are made linkable with existing computer tools to create other executables, even when encrypted, via the methods and systems described herein (Page 6, Section 4.1).

As per claim 5, Kim discloses the methods in claim 1, for, and the method of, selective sharing of memory pages between the handle (e.g. server) and the client such that the functions being executed by the handle on behalf of the client gets to access the entire data, heap, and stack space of the client process, but not the text (Page 4, Section 4 and Page 6, Section 4.1).

As per claim 6, Kim discloses the methods in claim 1 for guaranteeing run time security in the SecModule operating environment, which guards both the library module itself as well as any policy specifications held inside it (Page 6 – 7, Section 4.4).

As per claim 8, Kim discloses the methods in claim 1 that apply existing operating system facilities are utilized to ensure SecModule users (ref: the user's process, or "client") are granted efficient access to the resources held within a SecModule through selective, enforceable, revokable sharing of memory pages between the client's process (Page 4, Section 4).

As per claim 9, Kim discloses the methods in claim 1 that guarantee the cost overhead of accessing a code, function, or data held inside a SecModule is within established boundaries of the absolute minimum cost incurred for a context switch of processes executing within the operating system in which the SecModule is installed (Page 7, Section 4.5).

As per claim 10, Kim discloses the methods in claim 1 to guarantee that actual Library/Module (ref SecModule) always remain protected against direct access, that this invention allows a SecModule implementor (ref: entity who creates a SecModule for other's access and use) absolute control over the ability, or the rights' of a client (ref: SecModule user) to invoke the code, functions, procedures, object methods, data held

securely within the SecModule through the policy specifications referred to above in claim 2 (Page 3, Section 3).

As per claim 11, Kim discloses the methods in claim 1 to guarantee a library or module's functionality (or the behavior and state of any code, function or data held within the library or module) remains identical, or does not change substantively when converted to a SecModule via the methods and systems described herein, such that a SecModule is fundmentally compatible with the traditional form of libraries and modules, and can be a drop-in replacement for the traditional library/module (Page 3, Section 3).

As per claim 12, Kim discloses the methods in claim 1 to guarantee that through the creation and use of a SecModule and accompanying policies, implementors as well as authorized users (ref: clients) can debug, experiment, measure and otherwise develop and revise the SecModule according to the needs at hand (Page 7, Section 4.5).

As per claim 13, Kim discloses the methods in claim 2, applicable to all existing and future operating environments, i.e. the security properties that govern the behavior the handle and client are expressed in a policy specification language that can be same or different from the language used to develop the library (Page 7, Section 5).

As per claim 14, Kim discloses the methods in claim 2 which ensures the policies SecModule implementor (ref: the entity who creates the Secured Library/Module) can specify can be as simple, or as complex as necessary, - i.e. is computationally complete (Page 7, Section 5).

As per claim 15, Kim discloses the methods in claim 2 which allows the the policy specification language can be used to directly define commercial or noncommercial licenses for end-users of the SecModule system and the policies that the SecModule implementor (ref: the entity who creates the Secured Library/Module) can specify are in fact computationally complete, supporting arbitrary business models (Page 7, Section 5).

As per claim 17, Kim discloses the methods in claim 2 to guarantee that through the creation and use of a SecModule and accompanying policies, implementors can debug, experiment, measure and otherwise develop and revise the policies governing the use of a SecModule according to the needs at hand, independently of the SecModule and clients to which the policy applies to (Page 7, Section 4.5).

As per claim 18, Kim discloses all methods and systems described in invention applies to all major computer operating systems and hardware, including but not limited to OpenBSD, OS X, Linux, Microsoft Windows 2000/XP/Vista, Intel x86 architectures,

PowerPC architectures, Sun Microsystems Architectures, as well as any future architectures and operating environment (Page 2, Section 2).

Claim Rejections - 35 USC § 103

3. 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.

4. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Base Line Performance Measurements of Access Controls for Libraries and Modules" by Jason W. Kim and Vassilis Prevelakis (hereinafter Kim) as applied to claims 1 and 2 above, and further in view of U.S. Patent 6,862,683 B1 to Wille et al. (hereinafter Wille).

As per claim 7, Kim discloses the methods in claim 1, applicable to all existing and future operating environments that additional security measures, but is silent regarding including but not limited to, random splitting, obfuscation, function renaming,

control flow morphing can be applied in either in part or whole to any function, procedure, method or object dispatch within a SecModule to defeat reverse engineering attacks even when the encryption keys are compromised

Wille teaches:

including but not limited to, random splitting, obfuscation, function renaming, control flow morphing can be applied in either in part or whole to any function, procedure, method or object dispatch within a SecModule to defeat reverse engineering attacks even when the encryption keys are compromised (Col. 3 Lines 22 – 29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Kim to include obfuscation, as taught in Wille.

The motivation is to prevent the code from being compromised (Wille, Col. 1 Lines 13 – 30).

As per claim 16, Kim discloses the methods in claim 2 - that additional security measures, but is silent regarding including but not limited to, random splitting, obfuscation, function renaming, control flow morphing can be applied in either in part or whole to any function, procedure, method, data, or object dispatch within a SecModule, including the policy specification itself, such that even while a user of a SecModule is

actively seeking to compromise or exploit, functions, procedures, methods data and policies held within the SecModule remain secures

Willie teaches:

including but not limited to, random splitting, obfuscation, function renaming, control flow morphing can be applied in either in part or whole to any function, procedure, method, data, or object dispatch within a SecModule, including the policy specification itself, such that even while a user of a SecModule is actively seeking to compromise or exploit, functions, procedures, methods data and policies held within the SecModule remain secures (Col. 3 Lines 22 – 29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Kim to include obfuscation, as taught in Wille.

The motivation is to prevent the code from being compromised (Wille, Col. 1 Lines 13 – 30).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER LAGOR whose telephone number is (571)270-5143. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on (571)272-7305. 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.

/A. L./
Examiner, Art Unit 2491
May 27, 2010

/Hai Tran/
Supervisory Patent Examiner, Art Unit 2491

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

☐ Small entity-fee $_____(37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $_____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $_____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. 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. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Type or Printed name	Registration Number, If applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAR 22 2011
OFFICE OF PETITIONS

Jason Won Kim
1401 Marcello Dr.
San Jose CA 95131

In re Application of
Kim
Application No. 11/777,510
Filed: July 13, 2007
For: METHODS AND APARATUS FOR SECURING ACCESS TO COMPUTER LIBRARIES AND MODULES, THE SECMODULE FRAMEWORK

ON PETITION

This is in response to the renewed petition, filed March 3, 2011, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On June 8, 2010, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on September 9, 2010, for failure to submit a timely response to the June 8, 2010 Office action. This decision precedes the mailing of a Notice of Abandonment.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to nonreceipt of the June 8, 2010 Office action. Specifically, petitioner states that the June 8, 2010 Office action was not received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the June 8, 2010 Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

In the present petition, petitioner has failed to provide sufficient evidence. On renewed petition, petitioner should state how petitioner maintains files for patent matters, whether there is a file in which he keeps mail received from the Office. If so petitioner should provide a copy of the correspondence. Petitioner indicates that he keeps a calendar which he uses to track due dates.

However, petitioner has failed to present copies of the calendar for June 2010- September 2010 the dates in question. If these months are no longer available, the lack of such evidence may prohibit the granting of the petition. Since the mailing of the June 2010 action, the Office has mailed a petition decision and a Notice of Abandonment, were these items entered into petitioner's system? If so evidence of such should be provided.

In the present petition, petitioner did not submit sufficient documentary evidence. Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

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).

If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jason Won Kim
1401 Marcello Dr.
San Jose CA 95131

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of :
Kim :
Application No. 11/777,510 :
Filed: July 13, 2007 :
For: METHODS AND APARATUS FOR :
SECURING ACCESS TO COMPUTER :
LIBRARIES AND MODULES, THE :
SECMODULE FRAMEWORK :

ON PETITION

This is in response to the renewed petition, filed May 17, 2011 to withdraw the holding of abandonment pursuant to 37 CFR 1.181.

The petition is **GRANTED**.

On June 8, 2010, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on September 9, 2010, for failure to submit a timely response to the June 8, 2010 Office action. This decision precedes the mailing of a Notice of Abandonment. Petitions under 37 CFR 1.181 was dismissed on January 24, 2011 and March 22, 2011.

The petition satisfies the requirements to establish that the non-final Office action was not received.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2491 for re-mailing the non-final Office action of June 8, 2010. The period for reply will run from the mailing date of the non-final Office action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jason Won Kim
1401 Marcello Dr.
San Jose CA 95131

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Application of:
Jason Won Kim
Application No. 11/777510
Filing or 371(c) Date: 07/13/2007
Title of Invention:
METHODS AND APARATUS FOR SECURING ACCESS TO COMPUTER LIBRARIES AND MODULES, THE SECMODULE FRAMEWORK

~~In re Application of:~~
~~Jason Won Kim~~
~~Application No. 11/457803~~
~~Filing or 371(c) Date: 00/00/0000~~
~~Title of Invention:~~
~~METHODS AND APARATUS FOR SECURING ACCESS TO COMPUTER LIBRARIES AND MODULES:THE SECMODULE FRAMEWORK~~

DECISION ON PETITION

This is a decision on the petition filed July 12, 2011, requesting conversion of application 11/457803 to a provisional application. The petition is properly treated under 37 CFR 1.181.

Background

Application 11/457803 was filed via the Electronic Filing System ("EFS"), on July 15, 2006.

The Office mailed a Notice of Incomplete Nonprovisional Application on August 2, 2006, informing applicant that a filing date had NOT been accorded the application because the specification did not include at least one claim.

The present petition

In response to the Notice, applicant files the present petition wherein applicant avers that application no. 11/457803 was intended as a provisional application and so marked on the

Application Data Sheet. However, applicant provides that the application was misclassified as a nonprovisional applicant, marked as incomplete, and ultimately abandoned. Applicant avers that if the application was correctly classified as a provisional application as applicant had intended, the fact that the application was missing claims and the oath would not have mattered.

Review of the Application File

A review of Office records reveals that on July 15, 2006, applicant electronically filed application no. 11/457803. This Office issued an Electronic Acknowledgment Receipt noting as the application type: Utility. Thereafter, on August 2, 2006, this Office mailed a Notice of Incomplete Nonprovisional Application, informing applicant that a filing date had NOT been accorded the application because the specification did not include at least one claim. The Notice also required an oath/declaration, and a substitute specification, and additional fees of $350.00.

Anaysis

The best evidence of what was filed is Applicant's Electronic Acknowledgment Receipt. "A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO[1]." MPEP § 503.

Here, the Official record, as well as Applicant's Electronic Acknowledgment Receipt, confirm that a Utility application was filed by applicant. As such, there was no error in the filing on the part of this Office.

The Office thereafter properly mailed a Notice of Incomplete Nonprovisional Application on August 2, 2006. The Notice required a complete specification, including claims, an oath/declaration, and a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, and the search fee and examination fee.

No reply to the Notice having been filed, the application became abandoned on October 3, 2010.

Conversion of the application

Applicant is advised that application no. 11/457803 is abandoned, and before the application may be converted to a provisional application, the application must be revived.

---

[1] An acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. See, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007).

Applicant is 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).

Conclusion

The petition is dismissed. After the application has been revived, petitioner may file a petition with the office of patent Application Processing ("OPAP"), requesting conversion of the application to a provisional application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jason Won Kim
1401 Marcello Dr.
San Jose CA 95131

In re Application of:	:
Jason Won Kim	:
Application No. 11/777510	:
Filing or 371(c) Date: 07/13/2007	:
Title of Invention:	:
METHODS AND APARATUS FOR SECURING	:
ACCESS TO COMPUTER LIBRARIES AND	:
MODULES, THE SECMODULE FRAMEWORK	:

In re Application of:	:	
Jason Won Kim	:	CORRECTED
Application No. 11/457803	:	DECISION ON
Filing or 371(c) Date: 00/00/0000	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.181
METHODS AND APARATUS FOR SECURING	:	and
ACCESS TO COMPUTER LIBRARIES AND	:	DECISION ON
MODULES:THE SECMODULE FRAMEWORK	:	PETITION TO REVIVE

This is a decision corrects the decision on petition mailed August 22, 2011, wherein petitioner requested conversion of application 11/457803 to a provisional application, and addresses the present petition to revive the application filed January 4, 2012.

The decision on petition mailed August 22, 2011 is corrected as follows:

The petition to revive the application is **dismissed as inappropriate**

Background

Application 11/457803 was filed via the Electronic Filing System ("EFS"), on July 15, 2006.

The Office mailed a Notice of Incomplete Nonprovisional Application on August 2, 2006, informing applicant that a filing date had NOT been accorded the application because the specification did not include at least one claim.

The July 12, 2011 petition

In response to the Notice, applicant filed a petition on July 12, 2011 wherein applicant averred that application no. 11/457803 was intended as a provisional application and so marked on the Application Data Sheet. However, applicant provided that the application was misclassified as a nonprovisional applicant, marked as incomplete, and ultimately abandoned. Applicant averred that if the application was correctly classified as a provisional application as applicant had intended, the fact that the application was missing claims and the oath would not have mattered.

The August 22, 2011 decision dismissing the petition

The petition was properly dismissed in a decision on petition mailed August 22, 2011. The decision on petion noted that a review of Office records revealed that on July 15, 2006, applicant electronically filed application no. 11/457803. This Office issued an Electronic Acknowledgment Receipt noting as the application type: Utility. Thereafter, on August 2, 2006, this Office mailed a Notice of Incomplete Nonprovisional Application, informing applicant that a filing date had NOT been accorded the application because the specification did not include at least one claim. The Notice also required an oath/declaration, and a substitute specification, and additional fees of $350.00.

The decision on petition informed petitioner that the best evidence of what was filed is Applicant's Electronic Acknowledgment Receipt. Here, the Official record, as well as Applicant's Electronic Acknowledgment Receipt, confirm that a Utility application was filed by applicant. As such, there was no error in the filing on the part of this Office. The Office thereafter properly mailed a Notice of Incomplete Nonprovisional Application on August 2, 2006. The Notice required a complete specification, including claims, an oath/declaration, and a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, and the search fee and examination fee.

No reply to the Notice having been filed, the application became abandoned on October 3, 2010.

Correction of prior decision on petition

The Decision incorrectly noted that application no. 11/457803 is abandoned, and that before the application may be converted to a provisional application, the application must be revived.

A review of Office records confirms that the application was not abandoned, but instead, proceedings in the application were terminated. A Notice of Termination of Proceedings Under 37 CFR 1.53€ was mailed on November 7, 2006.

Inappropriateness of revival

Applicant is advised ***the application papers were never accorded a filing date***. Proceedings in this application were properly terminated. See 37 CFR 1.53(e)(3). ***The application may not be revived.***

The present petition and fees

In view of the above, a refund of the petition fee has been credited to petitioner's credit card. Applicant should request a refund of the filing fees by writing to the Office of Finance, Refund Section. A copy of this Decision should be included with the request.

The present petition under 37 CFR 1.137(b) is dismissed as inappropriate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/777,604	07/13/2007	Antonio Carlos Favero Caires	APA-PT005.1	8872

7590 03/24/2011
VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER
SHIAO, REI TSANG

ART UNIT	PAPER NUMBER
1628	

NOTIFICATION DATE	DELIVERY MODE
03/24/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

March 22, 2011

VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

Re Application of	
CAIRES, ANTONIO CARLOS FAVERO, Et Al.	: **DECISION ON PETITION**
Application No: **11/777604**	: **ACCEPTANCE OF COLOR**
Filed: **07/13/2007**	: **DRAWINGS**
Attorney Docket No: **APA-PT005.1**	:

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) November 14, 2007.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Shook, Hardy & Bacon L.L.P.
(Clearwire)
Intellectual Property Department
2555 Grand Blvd.
Kansas City MO 64108-2163

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,769,035	:	
Issue Date: August 3, 2010	:	
Application No. 11/777,741	:	DECISION ON PETITION
Filed: July 13, 2007	:	
Attorney Docket No. CRWR.134246	:	

This is a decision on the Request For Certificate Of Correction, filed August 16, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name and residence. The Requests are 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 requests that the present Petition was submitted to correct the assignee's name and residence on the previously submitted PTOL 85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Microsoft Corporation, Redmond, WA (US)"

to:

--Clear Wireless LLC., Kirkland, WA (US)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,769,035.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Pfeifer, et al.	:	
Application No. 11/777,777	:	ON APPLICATION FOR
Filed: July 13, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 12593-008-999	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed September 20, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least three hundred ninety-nine (399) days, not three hundred thirty-one (331) 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 20 2011
OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Patent of Pfeifer et al :	DECISION ON
Patent No. 7,892,544 :	REQUEST FOR RECONSIDERATION
Issue Date: February 22, 2011 :	OF
Application No. 11/777,777 :	PATENT TERM ADJUSTMENT &
Filed: July 13, 2007 :	NOTICE OF INTENT TO ISSUE
Atty Docket No. 12593-008-999 :	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 21, 2011. Patentees request that the revised patent term adjustment indicated on the patent be corrected from five hundred fifteen (515) days to five hundred fifty-five (555), or in the alternative, five hundred thirty-six (536) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

On February 22, 2011, the above-identified application matured into U.S. Patent No. 7,892,544 with a patent term adjustment of 515 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d). The Office acknowledges receipt of the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The patent issued with a revised Patent Term Adjustment of 515 days, which included a reduction of 6 days pursuant to 37 C.F.R. § 1.704(c)(10) for the submission of a Rule 312 amendment after the mailing of the Notice of Allowance and a reduction of 34 days pursuant to 37 C.F.R. § 1.704(c)(10) for the submission of corrected drawings after the mailing of the Notice of Allowance. Patentees argue both reductions should be removed and, in the alternative, patentees argue the 6 day reduction should stand, but the 34 day reduction should be changed to 13 days.

Patentees contend that applicants did not engage in behavior that reasonably would be considered as failing in efforts to conclude prosecution of the application by filing (1) a Rule 312 amendment on September 29, 2010 and (2) corrected drawings on January 20, 2001 because they were filed in response to two Notices to File Corrected Application Papers, mailed September 17, 2010 and January 12, 2011, respectively.

The reductions have been considered and the reductions are found to be warranted. It is undisputed that the September 29, 2010 Rule 312 amendment and the January 20, 2001 corrected drawings were filed after the mailing of the January 30, 2010 Notice of Allowance. Both filings are cause for reduction of patent term adjustment pursuant to § 1.704(c)(10).

> 37 CFR § 1.704(c)(10) provides that:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

As stated in pertinent part in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

Patentees' attention is drawn to the fact that an amendment under 37 CFR 1.312 is a paper that will be considered a failure to engage in reasonable efforts to conclude processing or

examination of an application. There is no "expressly requested by the examiner" exemption in 37 CFR 1.704(c)(10) as there is in 37 CFR 1.704(c)(8).

Accordingly, the Office properly entered a 6 day reduction, counting the number of days in the period beginning on the date the amendment under 37 CFR 1.312 was filed, September 29, 2010, and ending on February 22, 2011, the date the Office mailed a notice in response to the Rule 312 amendment.

With respect to the corrected drawings, filed January 20, 2011, the reduction begins on the date the drawings were filed, January 20, 2011, and ends on February 22, 2011, the date the patent issued. The period of reduction remains 34 days. Patentees argue the Issue Notification letter mail date should be the end date for the calculation. However, the Office does not consider the issue notification letter as a clock stopper under 37 CFR 1.704(c)(10). Originally, issue notification letters were not part of the file history and only in the recent relevant history did they become scanned into official files. The Office deems the issue date the response date if less than four months have passed since the filing of the post-notice of allowance paper.

A review of the patent term adjustment history for the application has revealed two additional reductions and one ground for removal of an adjustment.

37 CFR 1.702(a)(4) requires an adjustment if the Office takes more than 4 months to issue a patent after the issue fee was paid and all outstanding requirements were satisfied. The issue fee was paid on September 20, 2010. However acceptable drawings were not filed until January 20, 2011. The patent could not issue until all drawing deficiencies were cured. Accordingly, since the patent issued within four months of the date all outstanding requirements were satisfied (January 20, 2011), no adjustment pursuant to 37 CFR 1.702(a)(4) is warranted. The adjustment is being removed.

37 CFR 1.704(c)(7) provides the basis for two additional reductions. 37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before

the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

A Notice to File Missing Parts of Nonprovisional Application was mailed October 23, 2008, which set a two (2) month extendable period for reply. The Notice required applicants to submit various fees, an executed declaration, replacement drawings, and a copy of the "Sequence Listing" in computer readable form, a statement that the content of the sequence listing information recorded in CRF is identical to the written (on paper or CD) sequence listing, and where applicable, includes no new matter.

On January 23, 2008, applicants filed various fees, an executed declaration, and replacement drawings. However, applicants' response with respect to the sequence listing requirements set in the October 23, 2008 Notice was deficient. See April 3, 2008 Notice to Comply with Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures. An acceptable response to the sequence listing requirements set forth in the October 23, 2008 Notice was not filed until July 15, 2008.

Thus, entry of a period of reduction of 174 days pursuant to 37 CFR 1.704(c)(7) is warranted. The 174 day period of reduction is calculated beginning on the day after the date the initial reply containing an omission was filed, January 24, 2008, and ending on the date that a complete reply to the Notice was filed, July 15, 2008. A period of reduction of 174 days is being entered.

The second additional period of reduction based on 37 CFR 1.704(c)(7) is assessed for the amendment filed on March 1, 2010. On November 10, 2009, applicants filed a reply to the non-final Office action mailed August 10, 2009. The November 10, 2009 reply was non-compliant, as was explained in the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed January 27, 2010. A compliant amendment was not filed until March 1, 2010.

Thus, entry of a period of reduction of 111 days pursuant to 37 CFR 1.704(c)(7) is warranted. The 111 day period of reduction is calculated beginning on the day after the date the initial noncompliant reply was filed, November 11, 2009, and ending on the date that a compliant reply was filed, March 1, 2010.

In light thereof, the correct patent term adjustment is 230 days, which is the sum of 331 days of delay under 35 U.S.C. 154(b)(1)(A) and 224 days of delay under 35 U.S.C. § 154(b)(1)(B)reduced by 325 (174 + 111 + 6 + 34) 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 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 two hundred thirty (230)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,892,544 B2

DATED : **February 22, 2011** **DRAFT**

INVENTOR(S) : Pfeifer 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 515 days

Delete the phrase "by 515 days" and insert – by 230 days--

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 0370.0458C	
Application Number: 11/777,923	Filing Date (or 371(b) or (f) Date): July 13, 2007
Patent Number: 7,668,555	Issue Date: February 23, 2010
First Named Inventor: Hang Jin	
Title: Method for Computing Beamforming Weighting Vectors with Collaborated Uplink Sounding	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Thomas J. Frame/	Date August 4, 2010
Name (Print/Typed) Thomas J. Frame	Registration Number 47,232

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 08/12/2010

Applicant	: Hang Jin	: DECISION ON REQUEST FOR
Patent Number	: 7668555	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/777,923	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FORTKORT & HOUSTON P.C.
9442 N. CAPITAL OF TEXAS HIGHWAY
ARBORETUM PLAZA ONE, SUITE 500
AUSTIN TX 78759

MAILED
OCT 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Eric Bullmore	:	
Application No. 11/777,939	:	DECISION ON PETITION
Filed: July 13, 2007	:	
Attorney Docket No. GENP001US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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 September 24, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 24, 2010. Accordingly, the date of abandonment of this application is September 25, 2010. A Notice of Abandonment was mailed October 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE VON HELLENS LAW FIRM, LTD.
C. ROBERT VON HELLENS
7330 N 16TH STREET
SUITE C 201
PHOENIX AZ 85020

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
KAMMERZELL	:	
Application No. 11/777,971	:	DECISION ON PETITION
Filed: July 13, 2007	:	
Attorney Docket No. 6600-A-13	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 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 August 8, 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 October 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a signed declaration, drawings and the required fees; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6735.

This application is being referred to the Office of Data Management for further pre-examination processing.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: C. ROBERT VON HELLENS
2141 E. HIGHLAND AVENUE,
155 PARK ONE
PHOENIX, AZ 85016

UNITED STATES 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 21 2011
OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of	:	
Daniel Perlman	:	
Application No. 11/778005	:	
Filing or 371(c) Date: 07/13/2007	:	ON PETITION
Attorney Docket Number:	:	
P0958.70010US00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2011, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed April 8, 2009. The Office communication set a one (1) month or 30 day period for reply from the mail date of the Office communication. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on May 9, 2009. A Notice of Abandonment was mailed on December 15, 2009.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

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.

The application is being referred to Technology Center Art Unit 1619 for processing of the reply to the Office communication filed with the petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: WB AMES IP
7031 LOS VIENTOS SERENOS
ESCONDO, CA 92029

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WALTER J. TENCZA JR.
100 MENLO PARK
SUITE 210
EDISON NJ 08837

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Aubrey Jones	:	
Application No. 11/778,007	:	DECISION ON PETITION
Filed: July 13, 2007	:	
Title: Remote Control System For Use With A Glove	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 31, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $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 Technology Center AU 2629 for further appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GRANT ANDERSON LLP
C/O PORTFOLIO IP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Brian K. Maples, et al.	:	
Application No. 11/778,018	:	DECISION ON PETITION
Filed: July 14, 2007	:	TO WITHDRAW
Attorney Docket No. ITI-1001-UT	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Grant Anderson LLP has been revoked by the assignee of the patent application on October 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/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON P.C. (BO)**
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
www.uspto.gov

MAILED

DEC 22 2010

OFFICE OF PETITIONS

BRIAN ROFFE, ESQ.
8170 MCCORMICK BOULEVARD
SUITE 223
SKOKIE, IL 60076-2914

In re Application of	:	
David S. Breed, et al.	:	
Application No. 11/778,127	:	ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. ITI-084	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 5, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 5, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 6, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

A review of the record shows that petitioner made a bonafied attempt to pay the issue and publication fees filed concurrently with the petition on November 22, 2010. However, petitioner's deposit account had insufficient funds. Since petitioner's deposit account had insufficient funds to cover the cost of the issue and publication fees, no consideration on the merits can be given until all required fees have been received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIAN ROFFE, ESQ.
8170 MCCORMICK BOULEVARD
SUITE 223
SKOKIE, IL 60076-2914

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of
David s. Breed, et al.
Application No. 11/778,127
Filed: July 16, 2007
Attorney Docket No. ITI-084

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 5, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 5, 2010. Accordingly, the date of abandonment of this application is November 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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 at 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/778,251	CHANG ET AL.	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				6.1	435	6.11	91.1	287.2					
INTERNATIONAL CLASSIFICATION					536	23.1	24.3						
C	1	2	Q	1/68									
C	1	2	P	19/34									
C	1	2	M	1/34									
C	0	7	H	21/02									
C	0	7	H	21/04									

(Assistant Examiner) (Date)	/Frank W Lu./ 1/20/2012	Total Claims Allowed: 10
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 — O.G. Print Fig.: 2A

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
	~~2~~		32		62		92		122		152		182
2	3		33		63		93		123		153		183
3	4		34		64		94		124		154		184
	~~5~~		35		65		95		125		155		185
	~~6~~		36		66		96		126		156		186
	~~7~~		37		67		97		127		157		187
	~~8~~		38		68		98		128		158		188
4	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
5	11		41		71		101		131		161		191
6	12		42		72		102		132		162		192
7	13		43		73		103		133		163		193
	~~14~~		44		74		104		134		164		194
8	15		45		75		105		135		165		195
9	16		46		76		106		136		166		196
10	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HONEYWELL/JETTER & ASSOC.
PATENT SERVICES
101 Columbia Road
P.O. Box 2245
Morristown NJ 07962-2245

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,800,875	:	
Issue Date: September 21, 2010	:	
Application No. 11/778,296	:	DECISION ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. H0014043-0104	:	

This is a decision on the Petition To Add Assignee On Patent, filed February 9, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to add the omission of assignee's name on the previously submitted PTOL-85B. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to add the omitted 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 $400.00 petition fee (Fee Code 1462), as set forth under 37 CFR 1.17(f) have been submitted. However, a requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), is required. Therefore, the remaining $270.00 will be credited to petitioner's deposit account.

Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,800,875.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Jetter & Associates, P.A.
8295 North Military Trail Suite B
Palm Beach Gardens, FL 33410

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCDONNELL, BOEHNEN, HULBERT & BERGHOFF, LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

MAILED

AUG 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Ian Irwin, et al.	:	
Application No. 11/778,315	:	DECISION ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. 04-972-M	:	

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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 12, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

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 1625 for appropriate action by the Examiner in the normal course of business on the reply and petition under 37 CFR 1.48 received July 28, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Patent No. 7,645,768
Issue Date: January 12, 2010
Application No. 11/778,319
Filed: July 16, 2007
Attorney Docket No. AM102786 C3

DECISION ON PETITION

This is a decision on the Request For Issuance Of Certificate Of Correction Under 37 CFR 1.81(b), which is being treated as a Petition Under 37 CFR 3.81(b), filed May 10, 2010, to identify the correct assignee's name. A completed Certificate of Correction Form (PTO\SB\44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Wyeth LLC, Madison, NJ (US)"

to:

--Biotica Technology Limited, Essex (UK)

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,645,768.

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

MAILED
FEB 24 2012
OFFICE OF PETITIONS

Ingrid A. Beattie, Esq.
Mintz,Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston MA 02111

In re Patent No. 8,076,451	:	
Reshetnyak, et al.	:	DECISION DISMISSING
Application No. 11/778,323	:	REQUEST FOR
Issue Date: December 13, 2011	:	RECONSIDERATION OF
Filed: July 16, 2007	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
40984-501C01US	:	

This is in response to the "Request for Reconsideration of Patent Term Indicated on face of Patent under 37 CFR § 1.705(d)" filed February 10, 2012. Patentees requests that the determination of patent term adjustment be corrected from eighty-six (86) days to one hundred and sixty-five (165) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 86 days.

This application was filed on July 16, 2007. On December 13, 2011, the application matured into U.S. Patent No. 8,076,451 with a revised patent term adjustment of 86 days. The instant petition under 37 CFR 1.705(d) was filed on February 10, 2012, within two months of the issuance of the patent.

Patentees dispute the reduction of 79 days entered after the Notice of Allowance and Issue Fee Due was mailed on August 12, 2011. The reduction to the patent term adjustment of 79 days was entered for the filing of a supplemental Application Data Sheet on September 26, 2011. Specifically, patentees' states:

> In the September 16, 2011 telephone message, the Examiner stated that the ADS that was submitted in the above-identified application

incorrectly listed the priority PCT application (PCT/US06/01895) under "Foreign Priority Information rather than under Domestic Priority Information." This, the Examiner requested a corrected ADS to correct this error.

However, Applicants notes that the correct priority information was incorporated into the specification by way of Preliminary Amendment at the time of filing the application. Also a corrected Filing Receipt was requested and received. This corrected Filing Receipt correctly lists the priority PCT application under "Domestic Priority Data."

Accordingly, Applicants submit that the submission of the supplemental ADS should not have been considered a failure by the Applicant to engage in reasonable efforts to conclude prosecution because the correct priority information had been previously provided to (and acknowledged by) the Office.

Excerpt taken from "Request for Reconsideration of Patent Term Indicated on face of Patent under 37 CFR § 1.705(d)" filed February 10, 2012, p. 2.

Patentee's argument as to the reduction of the patent term adjustment of 79 days has been considered and is not persuasive. A review of the application file reveals that a preliminary amendment was filed July 16, 2007, making a claim of priority under 37 CFR 1.78 to PCT application PCT/US06/07881[1]. An Application Data Sheet (ADS) was also filed on July 16, 2007, claiming priority to PCT application PCT/US06/01895, but incorrectly listing it under the "Foreign Priority Information" section of the ADS. A filing receipt mailed June 9, 2008, listed the domestic priority as claiming the subject application as a continuation of PCT/US06/07881. On June 11, 2008, applicant filed a request to correct the filing receipt to reflect that the application was a continuation of PCT/US06/01895. The ADS filed on that date still listed PCT/US06/01895 under the "Foreign Priority Information". On June 19, 2008, a corrected Filing Receipt was mailed listing the subject application as a continuation of PCT/US06/01895. It is noted that simply because the Office picks up the priority claim and lists it on the filing receipt does not mean that the priority claim had been perfected under 37 CFR 1.78. While applicant may not have to file a petition under 37 CFR 1.78 to perfect the priority claim if the priority information is in the application within the time period set forth in 37 CFR 1.78(a)(2)(ii), but not in a manner specified in 37 CFR 1.78(a)(2)(i) and (a)(2)(ii), applicant must still perfect the priority claim by submitting the benefit claim in the manner specified in 37 CFR

[1] Petitioner will note that the preliminary amendment did not make a priority claim to PCT/US06/01895. Rather, the application listed in the preliminary amendment was PCT/US06/07881.

1.78(a)(2)(i) and (a)(2)(iii) (i.e., by an amendment in the first sentence of specification or in an ADS) to have a proper claim under 35 U.S.C. 120 or 119(e) and 37 CFR 1.78 to the benefit of a prior application. See 37 MPEP 201.11(iii)(D). It does not appear that applicants perfected the priority claim to PCT/US06/01895 until the filing of the supplemental ADS on September 26, 2011, in which case, the supplemental ADS was necessary, and not a duplicative requests made by the examiner.

Based on the aforementioned, the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) for the filing of the supplemental ADS on September 26, 2011, is proper. A supplemental ADS is not identified as one of the papers[2] the filing of which the Director has specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[3]. It is also note that the 37 CFR

---

[2] It is noted that *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)states, in pertinent part, that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of 2Attorney, (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, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

[3] 37 CFR 1.704(c)(10)provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the periods of adjustment set forth in § 1.703 shall be reduced by the lesser of:

1.404(c)(10) makes no distinction relative to the purpose for which the amendment under 37 CFR 1.312 was filed. Rather, 37 CFR 1.704(c)(10) simply states that the filing of an amendment under 37 CFR 1.312 after the mailing of a Notice of Allowance will result in the reduction to the patent term adjustment. The supplemental ADS was not simply a paper filed at the request of the examiner to correct priority information that had previously been corrected. The priority information had not been perfected pursuant to 37 CFR 1.78 prior to the filing of the supplemental ADS on September 26, 2011. Applicants certainly could have perfected the priority claim prior to the mailing of the Notice of Allowance. Thus, the filing of the supplemental ADS after the mailing of the Notice of Allowance subjects the application to a reduction to patent term adjustment under 37 CFR 1.704(c)(10).

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 86 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 matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

(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 other such paper; or

(ii) Four months…

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/2/10 **Paper No.:** —

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/278,331 Patent No.: 7731668 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The amendments to page 4 at line 20 as presented in the Request for Certification of Correction are APPROVED by the Examiner.

SIGNED: /Sean P. Dougherty/ DATED: 01/26/2011

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/25/10 **Paper No.:** _____

TO SPE OF : ART UNIT 1781

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/778402 Patent No.: 7794767 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER

UNITED STATES 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/IMMUNOGEN
2100 PENNSYLVANIA AVENUE, N. W.
WASHINGTON DC 20037

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Application of	:
Chari et al.	: DECISION ON APPLICATION
Application No. 11/778,437	: FOR PATENT TERM ADJUSTMENT
Filed: 07/16/2007	:
Atty. Dkt. No.: A9664	:
	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705", filed on August 13, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. § 154(b) be increased by 94 days from 132 days to 226 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PALM and PAIR screens to reflect that the revised Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is two hundred twenty-six (226) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On May 18, 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 132 days (226 days of Office delay reduced by 94 days of applicant delay). The subject application for patent term adjustment was timely filed on August 13, 2010.[1]

Applicants dispute the reduction of 94 days, for the filing of a supplemental response, (in this case, an Information Disclosure

[1] PALM records show that the Issue Fee was received on August 13, 2010.

Statement (IDS)) on September 3, 2009, 94 days after the filing of a reply on June 1, 2009. Applicants assert that the IDS contains the statement in accordance with 37 CFR 1.704(d) and should not be considered a failure to engage in reasonable efforts to conclude processing or examination. The petition is accompanied by an additional statement under 37 CFR 1.704(d).

Upon review, applicants' argument is well taken. As a proper statement under 37 CFR 1.704(d) has been provided, the entry of the period of reduction of 94 days is not warranted and will be removed.

In view thereof, the determination of PTA at the time of the mailing of the Notice of Allowance is updated to 226 days (226 days of PTO delay, reduced by 0 (94 - 94) days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The 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 (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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

Encl: Revised PAIR Calculation

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11778437 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11778437

Application Filing Date	07/16/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	226
A Delays	226	PTO Manual Adjustment	94
B Delays	0	Applicant Delay (APPL)	94
C Delays	0	Total PTA (days)	226

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
62	11/05/2010		P028	Adjustment of PTA Calculation by PTO	94		0
59	05/18/2010		MN/=.	Mail Notice of Allowance			0
58	05/14/2010		IREV	Issue Revision Completed			0
57	05/14/2010		DVER	Document Verification			0
56	05/14/2010		EX.A	Examiner's Amendment Communication			0
55	05/13/2010		N/=.	Notice of Allowance Data Verification Completed			0
54	05/13/2010		DOCK	Case Docketed to Examiner in GAU			0
53	05/13/2010		CNTA	Notice of Allowability			0
48	05/04/2010		P574	Paralegal TD Accepted			0
46	04/22/2010		FWDX	Date Forwarded to Examiner			0
47	04/21/2010	04/21/2010	DIST	Terminal Disclaimer Filed			45
45	04/21/2010		A.NE	Amendment after Final Rejection			0
44	02/08/2010		ELC_RVW	Electronic Review			0
43	02/08/2010		EML_NTF	Email Notification			0
42	02/08/2010		MCTFR	Mail Final Rejection (PTOL-326)			0
41	02/02/2010		CTFR	Final Rejection			0
38	01/26/2010		FWDX	Date Forwarded to Examiner			0
39	12/18/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
37	12/18/2009		A...	Response after Non-Final Action			0
40	10/28/2009		IDSC	Information Disclosure Statement considered			0
34	10/28/2009		RCAP	Reference capture on IDS			0
33	10/28/2009		M844	Information Disclosure Statement (IDS) Filed			0
32	10/28/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
31	09/18/2009		MCTNF	Mail Non-Final Rejection			0
30	09/17/2009		CTNF	Non-Final Rejection			0
36	09/03/2009		RCAP	Reference capture on IDS			0
35	09/03/2009	06/01/2009	M844	Information Disclosure Statement (IDS) Filed	24		22
29	09/03/2009		IDSC	Information Disclosure Statement considered			0
24	09/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
23	07/23/2009		FWDX	Date Forwarded to Examiner			0
22	06/01/2009		ELC.	Response to Election / Restriction Filed			0
21	04/30/2009	09/16/2008	MCTRS	Mail Restriction Requirement	226		-1
20	04/30/2009		CTRS	Requirement for Restriction / Election			0
28	09/25/2008		IDSC	Information Disclosure Statement considered			0
19	09/25/2008		M844	Information Disclosure Statement (IDS) Filed			0
18	09/25/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
17	11/27/2007		DOCK	Case Docketed to Examiner in GAU			0
16	11/15/2007		PG-ISSUE	PG-Pub Issue Notification			0
15	10/24/2007		DOCK	Case Docketed to Examiner in GAU			0
14	08/27/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
11	08/16/2007		OIPE	Application Dispatched from OIPE			0
10	08/07/2007		COMP	Application Is Now Complete			0
7	08/06/2007		PGPC	Sent to Classification Contractor			0
5	07/20/2007		L194	Cleared by OIPE CSR			0
4	07/20/2007		CLSS	CASE CLASSIFIED BY OIPE			0
3	07/19/2007		SCAN	IFW Scan & PACR Auto Security Review			0
27	07/16/2007		IDSC	Information Disclosure Statement considered			0
13	07/16/2007		RCAP	Reference capture on IDS			0
12	07/16/2007		M844	Information Disclosure Statement (IDS) Filed			0
2	07/16/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
1	07/16/2007		IEXX	Initial Exam Team nn			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110216

DATE : February 16, 2011

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction on Patent No.: 7851432

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:

/Misook Yu/
Supervisory Patent Examiner.Art Unit 1643

UNITED STATES 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.

SUGHRUE MION/IMMUNOGEN
2100 PENNSYLVANIA AVENUE, N. W.
WASHINGTON DC 20037

MAILED

APR 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,851,432	: DECISION ON REQUEST
Chari et al.	: FOR
Issue Date: 12/14/2010	: RECONSIDERATION OF
Application No. 11/778,437	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/16/2007	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
A9664	: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705, filed on February 14, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred seventy-seven (377) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred seventy-seven (377) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred seventy-seven (377)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,851,432 B2

DATED : **Dec. 14, 2010** **DRAFT**

INVENTOR(S) : Chari 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 360 days.

Delete the phrase "by 360 days" and insert – by 377 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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
PO BOX 1497
MADISON WI 53701-1497

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Application of	:	
John Trezza	:	
Application No. 11/778,461	:	ON REQUEST FOR
Filed: July 16, 2007	:	RECONSIDERATION OF
Attorney Docket Number: 088245-4724	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), October 24, 2011. Applicant believes that the PTA should be accorded an additional two hundred ninety-nine (299) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent pursuant to 37 CFR 1.702(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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].

In view thereof, the correct determination of PTA prior to issuance is **two hundred forty-six (246) days.**

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES 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 2,2011

In re Application of :

Samuel Lynch

Application No : 11778498

Filed : 16-Jul-2007

Attorney Docket No : 597792000210

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 September 2,2011

The request is **APPROVED.**

The request was signed by Gladys H. Monroy (registration no. 32430) on behalf of all attorneys/agents associated with Customer Number 25226 . All attorneys/agents associated with Cusotmer Number 25226 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	BioMimetic Therapeutics, Inc.
Name2	
Address 1	389 Nichol Mill Lane
Address 2	
City	Franklin
State	TN
Postal Code	37067
Country	US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	11778498
Filing Date	16-Jul-2007
First Named Inventor	Samuel Lynch
Art Unit	1646
Examiner Name	XIAOZHEN XIE
Attorney Docket Number	597792000210
Title	Platelet-Derived Growth Factor Compositions and Methods of Use Thereof

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 25226

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	BioMimetic Therapeutics, Inc.
Address	389 Nichol Mill Lane
City	Franklin
State	TN
Postal Code	37067
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Gladys H. Monroy/
Name	Gladys H. Monroy
Registration Number	32430

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEASON ELLIS LLP
81 MAIN STREET
SUITE 503
WHITE PLAINS NY 10601

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
O'Hanlon et al.	:	
Application No. 11/778,509	:	DECISION ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. 7415/1707-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, October 14, 2009, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on February 15, 2010. A Notice of Abandonment was mailed June 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114 (previously submitted on February 16, 2010 with additional Remarks/Arguments included within the petition to revive); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Additionally, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Further, it is not apparent whether the 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 matter is being referred to Technology Center AU 3691 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed February 16, 2010 and the additional Remarks/Arguments included within the petition filed August 23, 2010.

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

KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of
Robert D. MCKEIRNAN JR.
Application No. 11/778,517
Filed: July 16, 2007
Attorney Docket No. 49078-CPI

: DECSION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to pay the publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed February 5, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the publication fee of $300 ; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. *See* 37 CFR 1.33(a).

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.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: ROBERT D. MCKEIMAN JR
1434 W. 11TH STREET,
LOS ANGELES, CA 90015

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS TX 75252

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 11/778,558	:	DECISION GRANTING PETITION
Filed: July 16, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. TSM06-0510	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 12, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/848,289, filed September 29, 2006, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/848,289, which was filed on September 29, 2006, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2891 for appropriate action on the amendment submitted July 12, 2011, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/848,289.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/778,558	07/16/2007	2891	1130	TSM06-0510	20	3

CONFIRMATION NO. 1664

CORRECTED FILING RECEIPT

43859
SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

OC000000049493099

Date Mailed: 08/25/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Yu-Hsiung Wang, Hsinchu, TAIWAN;
Wen-Ting Chu, Kaohsiung, TAIWAN;
Eric Chen, Hsinchu, TAIWAN;
Hsien-Wei Chin, Hsin-Chu, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 43859

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/848,289 09/29/2006

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 07/30/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/778,558**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD FOR RESHAPING SILICON SURFACES WITH SHALLOW TRENCH ISOLATION

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stevens Law Group
1754 Technology Drive
Suite #226
San Jose, CA 95110

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Michael Bronstein, et. al.	:	
Application No. 11/778,633	:	DECISION ON PETITION
Filed: July 16, 2007	:	TO WITHDRAW FROM
Attorney Docket No. NOVA-01200	:	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 December 2, 2010.

The request is **APPROVED**.

The request was signed by David R. Stevens on behalf of himself and all attorneys/agents of record. Therefore, David R. Stevens and all the attorneys/agents of record have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an outstanding Office action mailed on September 29, 2010, that requires a reply from the applicant.

All future communications from the Office will be directed to the intervening assignee of record 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: NOVAFORA, Inc.
2460 N. 1st Street – Suite 200
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
11/778,633	07/16/2007	Michael BRONSTEIN	NOVA-01200

CONFIRMATION NO. 1789

POWER OF ATTORNEY NOTICE

34051
Stevens Law Group
1754 Technology Drive
Suite #226
San Jose, CA 95110

OC000000045888894

Date Mailed: 02/08/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Stefan DIETRICH	:	
Application No. 11/778,693	:	ON PETITION
Filed: July 17, 2007	:	
Attorney Docket No. GOS-14	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 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 above-identified application became abandoned on October 8, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $405 filing fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of July 7, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 3762 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

K & L GATES, LLP
PO BOX 1135
CHICAGO, IL 60690

MAILED
JAN 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Katsuhiro Tomoda, et al.	:	
Application No. 11/778,736	:	DECISION GRANTING PETITION
Filed: July 17, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3712620.00007	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 6, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 6, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 19 2011

OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

In re Patent of Grabowski et al.	:	
Patent No. 7,698,254	:	
Issue Date: April 13, 2010	:	Letter
Application No. 11/778,752	:	
Filing Date: July 17, 2007	:	
Attorney Docket No. MELD 1003-4	:	

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed March 4, 2011.

The deficiency payment of $1,970 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Dec-10

TAYLOR IP, P.C.
P.O. BOX 560
142 S. MAIN ST.
AVILLA IN 46710

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
Daniel A. Schoch :
Application Number: 11/778,811 :
Filing Date: 07/17/2007 : ON PETITION
Attorney Docket Number: :
MMC0004.US :

This is a decision on the petition under 37 CFR 1.137(b) filed on May 12, 2009, to revive the above-identified application.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The above-identified application became abandoned on October 9, 2007, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on August 8, 2007, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on April 16, 2008.

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). The subject petition lacks item (1).

In regards to item (1), the petition lacks the required reply in that the Notice to File Missing Parts of Nonprovisional Application mailed on August 8, 2007, required payment of the statutory basic filing fee, a surcharge for its late filing, additional claim fee(s), the application search fee, and the application examination fee. On May 12, 2009, petitioner submitted the petition fee, an executed declaration, and late filing fee, but did not submit the basic filing fee, additional claim fee(s), application search fee, or application examination fee.

On December 10, 2010, the Office attempted to charge the required fees to counsel's deposit account, No. 20-0095, as authorized in the subject petition, but counsel's deposit account lacked sufficient funds to charge the fees due. As the required fees have not been paid, the petition must be **dismissed**.

37 CFR 1.25(a) states, in pertinent part, that an amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit.

A grantable petition must include payment of all required fees.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via the EFS-Web system of the USPTO.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-11

TAYLOR IP, P.C.
P.O. BOX 560
142. S MAIN STREET
AVILLA IN 46710

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Daniel A. Schoch	:	
Application Number: 11/778811	:	ON PETITION
Filing Date: 07/17/2007	:	
Attorney Docket Number:	:	
MMC0004.US	:	

This is a decision in response to the renewed petition under 37 CFR 1.137(b) filed on January 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on October 9, 2007, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on August 8, 2007, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on April 16, 2008. The petition filed on May 12, 2009, was dismissed on December 15, 2010.

The subject renewed petition is accompanied by payment of the utility filing fee, utility search fee, utility examination fee, and excess claims fee.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Le et al.	:	
Application No. 11/778,822	:	ON APPLICATION FOR
Filed: July 17, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0119	:	

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 May 6, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred seventy-nine (779) days, not three hundred seventy-seven (377) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRASK BRITT, P.C./MICRON TECHNOLOGY
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of
Aaron R. **WILSON** et al
Application No. 11/778,938
Filed: July 17, 2007
Attorney Docket No. 2269-8220US (06-1005.00)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed January 25, 2011, to expunge information from the above identified application. The petition will be considered under 37 CFR 1.182.

The petition is **GRANTED**.

Petitioner, in substance, requests that a Preliminary Amendment, EFS ID 9281136, filed January 21, 2011, be expunged from the record. The petition fee of $400.00 set forth in 37 CFR 1.17(f) will be charged to petitioner's Deposit Account 20-1469.

A review of the file indicates that the proper status identifiers were submitted with the communication filed January 21, 2011. The submitted information has been determined to be not material to the prosecution of the above identified application. The petition is granted.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 11/778,938 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AT&T Legal Department - HBH
Attn: Patent Docketing
One AT&T Way, Room 2A-207
Bedminster, NJ 07921

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of
Robert INGMAN, et *al.*
Application No. 11/778,999
Filed: July 17, 2007
Attorney Docket No.
60027.5063US01/070004

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 16, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2159 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

August 9, 2011

Shawn Li
Blank Rome LLP
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103

Patent No.	: 7,980,244 B2
Appl. No.	: 11/779,037
Inventor(s)	: Otho Boone, et al.
Issued	: July 19, 2011
Title	: **EMERGENCY PULMONARY RESUCITATION DEVICE**
Docket No.	: 124553-00102

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A petition to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AT&T LEGAL DEPARTMENT - HBH
Attn: PATENT DOCKETING
One AT&T WAY, ROOM 2A-207
BEDMINSTER, NJ 07921

MAILED
AUG 08 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert INGMAN, et *al.*	:	
Application No. 11/779,054	:	DECISION GRANTING PETITION
Filed: July 17, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **60027.5065US01 / 070006**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 16, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
JUL 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Rodriguez et al.	:	
Application No. 11/779,061	:	ON APPLICATION FOR
Filed: July 17, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 098888-2002	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed June 10, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is one hundred sixty-two (162) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly 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.

Determining the excluded appellate period, if any, prior to the determination of the B delay period is premature, as well.

The 91 day adjustment entered in connection with the mailing of a non-final Office action on April 15, 2010 was for Office delay under 73 CFR 1.704(a)(2) in failing to respond to the Notice of Appeal and arguments in the Pre-Appeal Brief Request for Review, filed September 14, 2010, within four months. It is noted that after a conference was held, the panel determined prosecution would be reopened.

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

---

[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.

patent term adjustment under 37 CFR 1.705(b). The fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

SEP 16 2011

OFFICE OF PETITIONS

In re Patent of Rodriguez et al.:
Patent No. 8,006,092 :
Issue Date: August 23, 2011 : DECISION ON REQUEST
Application No. 11/779,061 : FOR RECONSIDERATION OF
Filed: July 17, 2007 : PATENT TERM ADJUSTMENT
Docket No. 098888-2002 :

This is a decision on the petition filed on September 9, 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 sixty-two (162) days.

The petition under 37 CFR 1.705(d) is **dismissed**.

Patentees assert the Office failed to properly calculated the Three Year Delay period if 37 CFR 1,702(b)(1) and 7.03(b)(1). Patentees assert the Office should have entered an adjustment of 162 days for the Three Year Delay period. The Office does not concur with patentees' assertion the period of B delay is 162 days. The maximum period of B delay in this case is 162 days. Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was filed December 27, 2010. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)."

37 CFR 1.703(b)(1) provides:

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date

on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

As stated above, the date on which a RCE was filed is not included in the B Delay period. The maximum B Delay in this case is 162 days, which is the number of days beginning on July 18, 2010, the day after the date three years after the application's filing date, and ending on December 26, 2010, the day before the date the RCE was filed.

Patentees' determination of the B delay period fails to properly calculate the time excluded from B delay due to appellate review. 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 214 days, beginning on September 14, 2009, the date of filing of the notice of appeal and ending on April 15, 2010, the subsequent date of the mailing of a non-final Office action.

Thus, B delay is 0 (162 - 214) days.

In light of the above, the patent term adjustment remains zero days, which is the sum of 91 days of A delay and 0 days of B delay, reduced by 162 days of applicant delay.

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). This fee is required and will not be refunded. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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.

MAILED
JUL 08 2011
OFFICE OF PETITIONS

Abbott Diabetes Care Inc.
Bozicevic, Field & Francis LLP
1900 University Ave
Suite 200
East Palo Alto CA 94303

In re Application of	:	
Forrow et al.	:	DECISION ON APPLICATION
Application No. 11/779,072	:	FOR
Filed: July 17, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. ADCI-059CON	:	

This is a decision on the "REQUEST UNDER 37 C.F.R. §1.705(b) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 23, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from ninety-three (93) days to six hundred forty-eight (648) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **six hundred sixty-eight (668)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 17, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 93 days. On June 23, 2011, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 648 (729 - 61) days.

[1] PALM records indicate that the Issue Fee payment was received on July 5, 2011.

The patent issuing from the application is subject to a terminal disclaimer.

Applicants are correct with respect to the basis for correction of the initial determination of patent term adjustment. As asserted, 729 days, not 93 days, should have been entered pursuant to 37 CFR 1.702(a)(1). In addition, as asserted, a period of 61 days should have been entered for applicant delay pursuant to 37 CFR 1.704(b). However, applicants' math is incorrect. 729 days of Office delay reduced by 61 days of applicant delay results in an initial determination of 668 days, not 648 days, of patent term adjustment.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is six hundred sixty-eight (668) 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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11779072 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11779072

Application Filing Date	07/17/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	93
A Delays	93	PTO Manual Adjustment	575
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	668

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
52	07/07/2011		P028	Adjustment of PTA Calculation by PTO		61	0
51	07/07/2011		P028	Adjustment of PTA Calculation by PTO	729		0
50	07/07/2011		P028	Adjustment of PTA Calculation by PTO		93	0
46	05/17/2011		MN/=.	Mail Notice of Allowance			0
45	05/16/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
44	05/16/2011		DVER	Document Verification			0
43	05/16/2011		N/=.	Notice of Allowance Data Verification Completed			0
42	05/12/2011		CNTA	Allowability Notice			0
41	05/10/2011		FWDX	Date Forwarded to Examiner			0
40	05/09/2011		A.NE	Amendment after Final Rejection			0
39	05/02/2011		P574	Paralegal TD Accepted			0
38	03/17/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
37	03/14/2011		CTFR	Final Rejection			0
36	02/23/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
33	02/16/2011		FWDX	Date Forwarded to Examiner			0
35	02/15/2011		TDP	terminal disclaimer fee paid			0
34	02/15/2011		DIST	Terminal Disclaimer Filed			0
31	10/06/2010		DOCK	Case Docketed to Examiner in GAU			0
30	09/16/2010	06/15/2010	MCTNF	Mail Non-Final Rejection	93		32
29	09/13/2010		CTNF	Non-Final Rejection			0
27	08/30/2010		DOCK	Case Docketed to Examiner in GAU			0
32	02/15/2010		A...	Response after Non-Final Action			0
26	03/06/2009		DOCK	Case Docketed to Examiner in GAU			0
25	02/10/2009		C.ADB	Correspondence Address Change			0
24	10/09/2008		PG-ISSUE	PG-Pub Issue Notification			0
23	08/28/2008		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
19	07/03/2008		OIPE	Application Dispatched from OIPE			0
18	06/26/2008		PGPC	Sent to Classification Contractor			0
17	06/24/2008		L130	Receipt of all Acknowledgement Letters			0
16	06/24/2008		L197	Receipt of Acknowledgment Letter			0
15	06/24/2008		L197	Receipt of Acknowledgment Letter			0
14	06/24/2008		L197	Receipt of Acknowledgment Letter			0
13	06/19/2008		C.AD	Correspondence Address Change			0
22	10/31/2007		A.PE	Preliminary Amendment			0
12	09/11/2007		ML196	Agency Referral Letter Mailed			0
11	09/11/2007		ML196	Agency Referral Letter Mailed			0
10	09/11/2007		ML196	Agency Referral Letter Mailed			0
8	08/21/2007		COMP	Application Is Now Complete			0
9	08/20/2007		PGPW	Waiting LR clearance			0
7	08/14/2007		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated			0
6	08/14/2007		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated			0
5	08/14/2007		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated			0
4	07/24/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	07/21/2007		SCAN	IFW Scan & PACR Auto Security Review			0
28	07/17/2007		IDSC	Information Disclosure Statement considered			0
21	07/17/2007		A.PE	Preliminary Amendment			0
20	07/17/2007		EIDS.	Electronic Information Disclosure Statement			0
2	07/17/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
1	07/17/2007		IEXX	Initial Exam Team nn			0
0.5	07/17/2007		EFILE	Filing date			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **12/08/11**

TO SPE OF : ART UNIT: **1759 Attn: BARTON JEFFREY T (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/779072 Patent No.: 7998338

CofC mailroom date: 11/23/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check the Specifications & Claims For the requested changes as the claims have been cancelled

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: _____

SPE

1759
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 - HBH
Attn: Patent Docketing
One AT&T Way, Room 2A-207
Bedminster, NJ 07921

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert INGMAN, et *al.*	:	
Application No. 11/779,087	:	DECISION GRANTING PETITION
Filed: July 17, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
60027.5066US01/070007		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 26, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3694 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AT&T Legal Department - HBH
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster NJ 07921

MAILED
FEB 27 2012
OFFICE OF PETITIONS

In re Application of	:	
Robert Ingman, et al.	:	
Application No. 11/779,087	:	DECISION GRANTING PETITION
Filed: July 17, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60027.5066US01/070007	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 24, 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 September 19, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3694 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

MAILED

APR 15 2011

OFFICE OF PETITIONS

In re Application of	:	
AASGAARD	:	
Application No. 11/779,123	:	DECISION ON PETITION
Filed: July 17, 2007	:	TO WITHDRAW
Attorney Docket No. 48293-108467	:	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 22, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Grant H. Peters on behalf of the attorneys of record associated with Customer No. 23644.

All the attorneys of record associated with Customer No. 23644 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 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.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ABEO, LLC, C/O JAMES EGGERS, PRESIDENT
9850 NICHOLAS STREET, SUITE 300
OMAHA, NE 68114

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
11/779,123	07/17/2007	A.L. PEPPER AASGAARD	48293-108467

CONFIRMATION NO. 1644

POWER OF ATTORNEY NOTICE

23644
BARNES & THORNBURG LLP
P.O. Box 2786
CHICAGO, IL 60690-2786

OC000000047092388

Date Mailed: 04/12/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PENUMBRA INC. C/O MOFO
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of
Arani BOSE
Application No. 11/779,221
Filed: July 17, 2007
Attorney Docket No. **028414-000410US**

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 26, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **PENUMBRA INC. C/O MOFO** has been revoked by the assignee of the patent application on July 29, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **TOWNSEND AND TOWNSEND AND CREW, LLP**
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ABBOTT MEDICAL OPTICS, INC.
1700 E. ST. ANDREW PLACE
SANTA ANA CA 92705

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Mark S. Cole, et al.	:	
Application No. 11/779,230	:	DECISION ON PETITION
Filed: July 17, 2007	:	
Attorney Docket No. 27575CIP3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 6, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 7, 2010. The Notice of Abandonment was mailed January 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED
FEB 03 2012
OFFICE OF PETITIONS

In re Patent No. 8,050,628 :
Issue Date: November 1, 2011 :
Application No. 11/779,242 : DECISION ON PETITION
Filed: July 17, 2007 :
Attorney Docket No. 4278778-0014 :

This is a decision on the Request For Certificate of Correction Of Patent, filed November 17, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"M.N.C. Microsat Networks (Cyprus) Limited"

to:

--OverHorizon (Cyprus) PLC--

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 (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 8,050,628.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUL 26 2011
OFFICE OF PETITIONS

STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

In re Application of	:	
BENFATTI, EUGENE LOUIS	:	
Application No. 11/779,307	:	DECISION ON PETITION
Filed: 07/18/2007	:	
Attorney Docket No. 51900-BENFATTI-002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 4, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 5, 2010. A Notice of Abandonment was mailed on March 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3728 for appropriate action by the Examiner on the reply received on July 11, 2011.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

BIB DATA SHEET

CONFIRMATION NO. 2003

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/779,331	07/18/2007 **RULE**	002	3765	1.754.09

APPLICANTS
Russell Reed, Park City, UT;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **
07/30/2007

Foreign Priority claimed	❑ Yes ☑ No		STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119(a-d) conditions met	❑ Yes ☑ No	❑ Met after Allowance	UT	4	13	1
Verified and Acknowledged	/RICHALE LEE QUINN/ Examiner's Signature	RLQ Initials				

ADDRESS

MALLOY & MALLOY
2800 S.W. THIRD AVENUE
HISTORIC CORAL WAY
MIAMI, FL 33129

TITLE

GOGGLES WITH INTERCHANGEABLE LENS

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUL 20 2011
OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN,NJ 8830

In re Application of	:	
Geoffrey Daniel Nass	:	
Application No. 11/779,399	:	ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. 2007P09326US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 17, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 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 March 24, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The proposed reply required for reconsideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). An advisory Action is attached to this decision.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/779,399	Applicant(s) NASS, GEOFFREY DANIEL	
	Examiner XIANG YU	Art Unit 2455	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 May 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached response.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/EMMANUEL L. MOISE/
Supervisory Patent Examiner, Art Unit 2455

/X. Y./
Examiner, Art Unit 2455

ADVISORY ACTION

With regards to latest remarks submitted on May 17th, 2011 in the After-Final response, the examiner maintains the similar reasons as previously stated with regards to the issue of the reset function and the automation device(s).

With regards to the independent claims 1, 9, and 16, and being consistent with the specifications (i.e., paragraphs [0022] and [0029]), the scope of the any automation component along with the reset function are too broad. Since the claim language on the first or second "automation component" cover such a broad range, this can be easily mapped to the Bluetooth devices as described within the *Hillyard* reference. The emphasis on the reset function being "...initiated, activated <u>and/or</u> executed in response to a change in the communication link..." can also be broadly interpreted given the OR condition within the claim language, and be mapped to the example as provided within *Hillyard* regarding the frequency hopping.

Hillyard discloses of two variable devices, communicating wirelessly using Bluetooth communication protocol. In general, the first device sending out an inquiry scan for connections would be the master, and the second device that responds to the inquiry and connects would be the client or slave (e.g., *Hillyard:* paragraph [0026]). This mirrors the specification's condition of a master automaton component connected wirelessly to a second slave automation component. With each frequency hop, the two devices are rendered inoperable until they reconnect at the next frequency and so on, hopping at a regular basis of 1,600 times a second. Wherein the frequency hopping is according to some program instruction or function, and each hop would activate a

response in the other communicating, connected device to execute a hop as well, and thus a change in the communication link.

The other independent claims with the emphasis on processor, memory and storage memory are similarly covered by the Bluetooth devices used within *Hillyard.*

This example covers all the elements as mentioned in the claim language related to resetting the communication link between a master and slave node to an effort to restore inoperative functionality.

Applicant's arguments have been considered but are moot in view of the current reasons.

/X. Y./
Examiner, Art Unit 2455

/EMMANUEL L. MOISE/
Supervisory Patent Examiner, Art Unit 2455

UNITED STATES 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

SEP 08 2011

OFFICE OF PETITIONS

In re Application of :
Geoffrey Daniel Nass :
Application No. 11/779,399 : ON PETITION
Filed: July 18, 2007 :
Attorney Docket No. 2007P09326US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 23, 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 March 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 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) 272-1642. 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 2445 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.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Ruben Diaz	:	DECISION ON PETITION
Application No. 11/779,434	:	TO WITHDRAW
Filed: July 18, 2007	:	FROM RECORD
Attorney Docket No. 250547-1000	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 12, 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 Winston & Strawn LLP 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 Winston & Strawn LLP not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed July 9, 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
www.uspto.gov

LAW OFFICES OF PAUL E. KUDIRKA
40 BROAD STREET
SUITE 300
BOSTON MA 02109

MAILED
MAY 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Oliver Rather et al	:	
Application No. 11/779,452	:	DECISION ON PETITION
Filed: July 18, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. B0004/7173	:	

This is a decision on the petition under 37 CFR 1.55(c), filed February 3, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign German Application No. 10 2007 021 701.5, filed May 9, 2007.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF PAUL E. KUDIRKA
57 HILLSIDE DRIVE
WAYLAND, MA 01778

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Oliver Rather et al	:	
Application No. 11/779,452	:	DECISION ON PETITION
Filed: July 18, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. B0004/7173	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed May 31, 2011 and supplemented on June 27, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Germany Application No. 10 2007 021 701.5, filed May 9, 2007.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on July 18, 2007, which is after November 29, 2000 and within 12 months of May 9, 2007 (the filing date of the foreign application to which benefit is now being claimed). On June 27, 2007, an Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to the Office of Data Management for further processing.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/779,452	07/18/2007	2881	1680	B0004/7173	22	5

CONFIRMATION NO. 2215

CORRECTED FILING RECEIPT

64967
LAW OFFICES OF PAUL E. KUDIRKA
57 HILLSIDE DRIVE
WAYLAND, MA 01778

OC000000048469479

Date Mailed: 06/29/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Oliver Rather, Bremen, GERMANY;
Karsten Michelmann, Harpstedt, GERMANY;
Jochen Franzen, Bremen, GERMANY;

Assignment For Published Patent Application

BRUKER DALTONIK GMBH, Bremen, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 64967

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
GERMANY 10 2006 035 277.7 07/31/2006
GERMANY 10 2007 021 701.5 05/09/2007

If Required, Foreign Filing License Granted: 06/28/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/779,452**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR AVOIDING UNDESIRABLE MASS DISPERSION OF IONS IN FLIGHT

Preliminary Class

250

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 30 2010

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of	:	
Louis Jacobus Botha	:	
Application No. 11/779,535	:	ON REQUEST FOR
Filed: July 18, 2007	:	RECONSIDERATION OF
Attorney Docket Number: 16123US02	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 13, 2010. Applicant believes that he should be accorded an additional PTA of 149 days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **four hundred ninety-six (496) days** (496 days of PTO delay, reduced by 0 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

MAILED

JUN 08 2011

OFFICE OF PETITIONS

In re Application of	:	
James D. Ralph et al.	:	
Application No. 11/779,559	:	DECISION ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. 25225-14	:	

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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 31, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 01, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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. 13/040,072.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DON W. BULSON (PARK)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE / 19TH FLOOR
CLEVELAND OH 44115

MAILED

MAY 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Harvey et al.	:	
Application No. 11/779,611	:	DECISION ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. PARKP0275USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee on or before March 14, 2011, as required by the Notice of Allowance and Fee(s) Due mailed December 14, 2010. Accordingly, the date of abandonment of this application is March 15, 2011. A Notice of Abandonment was mailed March 30, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1) of the above items.

With regards to item (1), petitioner has failed to pay the issue fee of $1,510.00 and the publication fee of $300.00. *See* MPEP 711.03(c)(III)(A)(1). Petitioner has instead filed a Request for Continued Examination (RCE) in response to the Notice of Allowance.

Further, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of an RCE request without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the issue fee or any portion thereof.

Petitioner is advised that, once submitted, the issue fee 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DON W. BULSON (PARK)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE / 19TH FLOOR
CLEVELAND OH 44115

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Harvey et al.	:	
Application No. 11/779,611	:	DECISION ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. P359P0070USA	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 14, 2011, as required by the Notice of Allowance and Fee(s) Due mailed December 14, 2010. Accordingly, the date of abandonment of this application is March 15, 2011. A Notice of Abandonment was mailed March 30, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $1,510.00 issue fee and the $300.00 publication fee and a Request for Continued Examination (RCE) and fee of $810.00 (previously submitted on April 1, 2011), (2) the petition fee of $1,620.00 (previously paid on April 1, 2011); and (3) a proper statement of unintentional delay.

Further, petitioner has filed a Request for Continued Examination (RCE) in response to the Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 2835 for processing of the Request for Continued Examination under 37 CFR 1.114 filed April 1, 2011.

/Joan Olszewski/
Joan Olszewski
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.
11/779,617	07/18/2007	Robert P. Morris	1454/US	2541

49277 7590 02/02/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
LE, DEBBIE M

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
02/02/2011	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/779,617
Filed: July 18, 2007
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING SEARCH RESULTS BASED ON SELECTIONS IN PREVIOUSLY PERFORMED SEARCHES

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 January 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 January 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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.
11/779,617	07/18/2007	Robert P. Morris	I454/US	2541

49277 7590 05/10/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
LE, DEBBIE M

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
05/10/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/779,617 Filed: July 18, 2007 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING SEARCH RESULTS BASED ON SELECTIONS IN PREVIOUSLY PERFORMED SEARCHES	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 09 May 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 09 May 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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.
11/779,617	07/18/2007	Robert P. Morris	I454/US	2541

49277 7590 08/11/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
LE, DEBBIE M

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
08/11/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/779,617
Filed: July 18, 2007
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING SEARCH RESULTS BASED ON SELECTIONS IN PREVIOUSLY PERFORMED SEARCHES

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 09 August 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 09 August 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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.
11/779,617	07/18/2007	Robert P. Morris	I454/US	2541

49277 7590 11/21/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
LE, DEBBIE M

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
11/21/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/779,617 Filed: July 18, 2007 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING SEARCH RESULTS BASED ON SELECTIONS IN PREVIOUSLY PERFORMED SEARCHES	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 14 November 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 14 November 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software

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.
11/779,617	07/18/2007	Robert P. Morris	I454/US	2541

49277 7590 02/23/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER
LE, DEBBIE M

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
02/23/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of: Robert P. MORRIS Appl. No.: 11/779,617 Filed: July 18, 2007 For: METHODS, SYSTEMS, AND COMPUTER PROGRAM PRODUCTS FOR PROVIDING SEARCH RESULTS BASED ON SELECTIONS IN PREVIOUSLY PERFORMED SEARCHES	DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 22 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 22 February 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Eagan	:	
Application No. 11/779,708	:	DECISION
Filed/Deposited: 18 July, 2007	:	
Attorney Docket No. 4016P3221	:	

This is a decision on the petition filed on 14 March, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 30 June, 2010, with reply due absent extension of time on or before 30 September, 2010.

The application went abandoned by operation of law after midnight 30 September, 2010.

The Office mailed the Notice of Abandonment on 26 January, 2011.

On 14 March, 2011, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3663 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAR 15 2012
OFFICE OF PETITIONS

SPRINKLE IP LAW GROUP / ZIMMER
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

In re Application of	:	
MITCHELL, et al	:	
Application No. 11/779,762	:	DECISION ON PETITION
Filed: July 18, 2007	:	TO WITHDRAW
Attorney Docket No. ZIMM1220-2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TESLA MOTORS, INC.
C/O PATENT LAW OFFICE OF DAVID G. BECK
P.O. BOX 1146
MILL VALLEY, CA 94942

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Paul Dewitt Frey et al	:	
Application No. 11/779,840	:	
Filed: July 18, 2007	:	
Attorney Docket No. TES052	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 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 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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) 272-3210.

This application is being referred to Technology Center AU 2612 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.

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
www.uspto.gov

TESLA MOTORS, INC.
C/O PATENT LAW OFFICE OF DAVID G. BECK
P.O. BOX 1146
MILL VALLEY CA 94942

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel T. ADAMS et al.	:	
Application No. 11/779,843	:	DECISION ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. TES052	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 05, 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 06, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an 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 05, 2010is 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 2121 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
www.uspto.gov

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

MAILED
MAR 12 2012
OFFICE OF PETITIONS

In re Application of	:	
Andrew James et al	:	
Application No. 11/779,970	:	DECISION GRANTING PETITION
Filed: July 19, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 110323-0124	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 8, 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 March 6, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2881 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

MAILED
APR 26 2011
OFFICE OF PETITIONS

HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

In re Patent No. 7,753,093 :
Issued: July 13, 2010 :
Application No. 11/779,987 : ON PETITION
Filed: July 19, 2007 :
Attorney Docket No: 117246.00020 :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed March 31, 2011 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.33d 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 and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 10/07/2010

Applicant	: Stefan Biedenstein	: DECISION ON REQUEST FOR
Patent Number	: 7650326	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/780,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **313** 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

MAILED

AUG 08 2011

OFFICE OF PETITIONS

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTLBURGH PA 15219

In re Application of	:	
BROWN, et al	:	
Application No. 11/780,080	:	DECISION ON PETITION
Filed: July 19, 2007	:	TO WITHDRAW
Attorney Docket No. 133625-00101	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 8, 2011.

The request is **NOT APPROVED.**

The Request to withdraw from record cannot be approved because the change of correspondence address is not that of the first inventor. The Office will either change the correspondence address of record to the most current address information provided for an assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: L. GEORGE CHEDID
67 WEBSTER STREET
WEST NEWTON MA 02465

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTLBURGH PA 15219

MAILED

SEP 02 2011

OFFICE OF PETITIONS

In re Application of	:	
BROWN, et al	:	
Application No. 11/780,080	:	DECISION ON PETITION
Filed: July 19, 2007	:	TO WITHDRAW
Attorney Docket No. 133625-00101	:	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 19, 2011.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to Stephen P. Cole and the attorneys associated with Customer No. 21269, has been revoked by the applicants of the patent application on August 30, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Future communications from the Office will be directed to the address first copied below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: INTRINSIC LAW CORP.
235 BEAR HILL ROAD
SUITE 301
WALTHAM MA 02451

cc: WHITNEY BROWN
278 NORTH WEST STREET
FEEDING HILLS MA 01030

cc: STEPHEN P. COLE
PEPPER HAMILTON LLP,
125 HIGH STREET, 15TH FLOOR
BOSTON MA 02110

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
11/780,080	07/19/2007	Whitney Brown	133625-00101

CONFIRMATION NO. 3389

POA ACCEPTANCE LETTER

93255
Intrinsic Law Corp.
235 Bear Hill Road
Suite 301
Waltham, MA 02451

OC000000049620782

Date Mailed: 09/01/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2011.

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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/780,080	07/19/2007	Whitney Brown	133625-00101

CONFIRMATION NO. 3389

POWER OF ATTORNEY NOTICE

21269
PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

OC000000049620697

Date Mailed: 09/01/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2011.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BASF CATALYSTS LLC
100 CAMPUS DRIVE
FLORHAM PARK, NJ 07932

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of
Shau-Lin Franklin Chen, et al.
Application No. 11/780,094
Filed: July 19, 2007
Attorney Docket No. 5273/ENG0063-00

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 20, 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 December 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election with 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 1793 for appropriate action by the Examiner in the normal course of business on the reply received July 2, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/780,289	07/19/2007	Steven D. Clement	WB2007012859 (WACHP102US)	3734

23623 7590 09/28/2011
TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

EXAMINER
KAPLAN, BENJAMIN A

ART UNIT	PAPER NUMBER
2434	

NOTIFICATION DATE	DELIVERY MODE
09/28/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com
hholmes@thepatentattorneys.com
swati@thepatentattorneys.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

Turocy & Watson, LLP
127 Public Square
57th Floor, Key Tower
Cleveland OH 44114

In re Application of:
Clement et al.
Application No. 11/780289
Filed: July 19, 2007
For: Digital Safety Deposit Box

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed July 15, 2011 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed April 15, 2011.

The petition is **DISMISSED AS MOOT**.

On July 15, 2011, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office action mailed April 15, 2011.

A review of the record indicates that on July 15, 2011, applicant filed a proper Request for Continued Examination (RCE) with the required fee, a preliminary amendment and a petition for one (1) month extension of time. A proper Request for continued Examination lifts the finality of the earlier office action.

Accordingly as petitioner's relief has already been given the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to John Follansbee at (571) 272-3612.

Tod Swann, QAS
Technology Center 2400
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Maschoff Gilmore & Israelsen
1441 W. Ute Blvd., Suite 100
Park City UT 84098-7633

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Application of	:	
Atsushi Oshima, et al.	:	
Application No. 11/780,357	:	DECISION GRANTING PETITION
Filed: July 19, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. S1202.10025US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 19, 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 16, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

NOV 22 2011

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

In re Application of	:	
Maribeth Joy BACK et al.	:	ON PETITION
Application No. 11/780,384	:	
Filed: July 19, 2007	:	
Atty. Docket No.: 046601-5218US		

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed March 17, 2011 (Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned June 18, 2011.

The application is being revived solely for the purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing application no. 13/217,133.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1270 extension of time submitted with the petition on October 31, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

Robert DeWitty
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE, J46/G4
SAN JOSE, CA 95141

MAILED

NOV 30 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mark F. Wilding et al :
Application No. 11/780,446 :
Filed: July 19, 2007 :
Attorney Docket No. CA920010060US2

This is a decision on the petition, filed November 29, 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 November 5, 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 2158 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

Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of	:	
Vinay A. Mahadik, et al.	:	
Application No. 11/780,448	:	DECISION ON PETITION
Filed: July 19, 2007	:	TO WITHDRAW
Attorney Docket No. 07.040.01 (920-0056US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **McAfee-Wong Cabello Lutsch Rutherford & Brocculeri LLP**
20333 Tombali Parkway, 6th Floor
Houston, TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 19,2011

In re Application of :

Peter MASCHWITZ

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11780531

Filed : 20-Jul-2007

Attorney Docket No : 312305US40DIV

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 19,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 1715 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11780531
Filing Date	20-Jul-2007
First Named Inventor	Peter MASCHWITZ
Art Unit	1715
Examiner Name	ELIZABETH BURKHART
Attorney Docket Number	312305US40DIV
Title	HEAT STABILIZED SUB-STOICHIOMETRIC DIELECTRICS

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	/Andrew M. Ollis/
Name	Andrew M. Ollis
Registration Number	40749

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 04 2010

OFFICE OF PETITIONS

ADE & COMPANY INC.
2157 HENDERSON HIGHWAY
WINNIPEG MB R2G1P-9 CA CANADA

In re Application of	:	
Weber et al.	:	
Application No. 11/780,580	:	ON PETITION
Filed: July 20, 2007	:	
Attorney Docket No. 85061-602 ADB	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 7, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 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 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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3618 for further examination on the merits

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

GARDNER GROFF GREENWALD & VILLANUEVA, PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Kimberly Nieves	:	
Application No. 11/780,606	:	DECISION GRANTING PETITION
Filed: July 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5N11.1-241	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 20, 2010 and supplemented August 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 July 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 3732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 20 2011

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104-3800

In re Application of :
Zhen Fan et al :
Application No. 11/780,623 : ON PETITION
Filed: July 20, 2007 :
Attorney Docket No. 01762.014600

This is a decision on the petition, filed May 19, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 6, 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 1771 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

FISH & RICHARDSON P.C.
SMITH & NEPHEW, INC.
150 Minuteman Road
Andover MA 01810

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Patent No. 8,061,359	:
Mark Emanuel	: DECISION ON REQUEST FOR
Issue Date: November 22, 2011	: RECONSIDERATION OF
Application No. 11/780,759	: PATENT TERM ADJUSTMENT
Filed: July 20, 2007	: and
Attorney Docket No. 00167-404002/PT2396USDIV	: NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 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 nine hundred thirty-six (936) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred seventy-five (775) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

BACKGROUND

On November 22, 2011, the above-identified application matured into U.S. Patent No. 8,061,359, with a revised patent term adjustment of 750 days. On Monday, January 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 936 days.

Preliminarily, patentee correctly asserts that the entry of a period of reduction, pursuant to 37 CFR 1.704(c)(10) should be corrected from 71 days to 46 days. A review of the record confirms that after the mailing of the notice of allowance on June 15, 2011, a 312 amendment was filed on September 13, 2011. In reply to that amendment on October 28, 2011, the examiner mailed a supplemental notice of allowability. Thus, the period of applicant delay is 46 days beginning on September 13, 2011 and ending on October 28, 2011. In view thereof, the period of reduction of 71 days has been removed and a period of reduction of 46 days is entered.

However, Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of a request for continued examination on April 15, 2011) the Office mailed a Notice of Allowance on June 15, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 161 day period from June 15, 2011 (the mailing date of the Notice of Allowance) until November 22, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 161 days and be increased from 268 to 429 days. This argument is at issue.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or or any time consumed by appellate review by the

Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 268 days based on the application having been filed under 35 U.S.C. 111(a) on July 20, 2007 and the patent not having issued as of the day after the three year date, July 21, 2010, and a request for continued examination under 132(b) having been filed on April 15, 2011. The 222-day over three year period beginning on April 15, 2011 (including the 161 day period beginning on June 15, 2011) was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent

within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination 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

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

continued examination 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 April 15, 2011, and the patent issued by virtue of that request on November 22, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 15, 2011 and ending on November 22, 2011 is not included in calculating Office delay.

CONCLUSION

With respect to correction of the applicant delay, the Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred ninety-nine (199) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,061,359 B2

DATED : **November 22, 2011** **DRAFT**

INVENTOR(S) : Emanuel

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 750 days

Delete the phrase "by 750 days" and insert – by 775 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

Paper No.

INVISTA NORTH AMERICA S.A.R.L.
THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON DE 19808

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Covelli et al.	:	
Application No. 11/780,819	:	
Filed: July 20, 2007	:	DECISION ON PETITION
Attorney Docket No. LP5857USCIP	:	UNDER 37 C.F.R. § 1.137(B)
Title: AQUEOUS POLYURETHANEUREA	:	
COMPOSITIONS INCLUDING	:	
DISPERSIONS AND FILMS	:	

This is a decision on the petition filed August 25, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned due to the April 1, 2011 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on June 2, 2011, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on June 27, 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

1 See MPEP § 1216.

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 filed the petition fee and the proper statement of unintentional delay. The concurrently submitted Request for Continued Examination (RCE), the associated fee, and an amendment have 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.[2]

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 August 25, 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.[3] 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

2 See Rule 1.137(d).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COATS & BENNETT/QIMONDA
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of

Thomas HAPP, et al
Application No. 11/780,849
Filed: July 20, 2007
Attorney Docket No. 6343-065

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2010.

The request is **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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : November 9, 2011

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/780867 Patent No.: 7812101

CofC mailroom date: 11-3-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Magdalene Talley
Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

/James J. Seidleck/
_____ 1765

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Hardy et al.	:	
Application No. 11/780882	:	DECISION ON PETITION
Filing or 371(c) Date: 07/20/2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. R0586-706930	:	

This is a decision on the Petition to Accept Unintentionally Delayed Priority Claim Under 37 CFR 1.78(a), filed October 25, 2010, to accept an unintentionally delayed claim under 37 CFR 1.78(a) for the benefit of the prior-filed provisional application set forth in the concurrently filed Amendment. The petition is properly treated under 37 CFR 1.78(a)(6).

The petition 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). 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 and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 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 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 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 Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3714 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/780,882	07/20/2007	3714	1960	R0586-706930	70	5

CONFIRMATION NO. 4868

CORRECTED FILING RECEIPT

37462
LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

OC000000045699339

Date Mailed: 01/27/2011

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)

Dow K. Hardy, Marlborough, MA;
Mark E. Herrmann, Wellesley, MA;
John E. Taylor JR., Vero Beach, FL;
John F. Acres, Corvallis, OR;
Steven N. Kane, Brookline, MA;

Power of Attorney: The patent practitioners associated with Customer Number 37462

Domestic Priority data as claimed by applicant

This application is a CIP of 11/001,775 11/30/2004
which claims benefit of 60/569,030 05/07/2004
This application 11/780,882
is a CIP of 11/704,144 02/08/2007
which claims benefit of 60/771,505 02/08/2006
and claims benefit of 60/838,234 08/17/2006
This application 11/780,882
claims benefit of 60/928,855 05/11/2007
and claims benefit of 60/838,234 08/17/2006

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 08/03/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/780,882**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

METHOD AND APPARATUS FOR PROVIDING PLAYER INCENTIVES

Preliminary Class

463

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INDIANAPOLIS OFFICE 27879
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

MAILED
JAN 14 2011
OFFICE OF PETITIONS

In re Application of
Jonathan Rosenberg, et al.
Application No. 11/780,975
Filed: July 20, 2007
Attorney Docket No. 13522/270 (954943)

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 13, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 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 2467 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTIE, PARKER, HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

MAILED

NOV 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,939,750 :
Issue Date : May 10, 2011 :
Application No. 11/781,011 :
Filed : July 20, 2007 :
Attorney Docket No. 68412/L550 :

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.59(b), filed October 27, 2011, to expunge information submitted under MPEP 724.05(II).

The petition is **DISMISSED.**

Petitioner asserts that the Power of Attorney and Assignee showing of ownership per 37 CFR 3.73(b) were unintentionally filed on September 16, 2011. Petitioner also requests that that the EFS Acknowledgment Receipt of September 16, 2011 also be expunged.

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The instant petition fails to comply with item (A)-(D) above. In the instant case, with regard to (A), the application issued on May 10, 2011. With regard to (B)-(D), Applicant has provided no statements that failure to obtain the documents would cause irreparable harm, that the information has not otherwise been made public, and that 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. As such, petitioner's request is dismissed.

For the reasons given above, the petition under 37 CFR 1.59 to expunge the Power of Attorney and Assignee showing of ownership per 37 CFR 3.73(b), filed on September 16, 2011, is dismissed. Further, the request to expunge the EFS Acknowledgment Receipt of September 16, 2011 is also dismissed.

Telephone inquiries regarding this decision should be directed to Joanne Hama at (571) 272-2911 or in her absence, the undersigned, at (571) 272-7099.

The application file is being referred to Technology Center AU 2475 for further processing.

David Buczel
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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
JUN 08 2011
OFFICE OF PETITIONS

In re Patent No. 7,795,774 :
Issue Date: September 14, 2010 :
Application No. 11/781,065 : DECISION ON PETITION
Filed: July 20, 2007 :
Attorney Docket No. 500.46063CX1 :

This is a decision on the Request For Certificate Of Correction, filed February 8, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignees' names. A completed Certificate of Correction Form (PTO-1050) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignees' names on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignees' names identified thereon from:

"Hitachi Industrial Equipment Systems Co., Tokyo (JP)"

to:

--Hitachi Industrial Equipment Systems Co., Ltd., Tokyo (JP);
Hitachi Powdered Metals Co., Ltd., Matsudoshi (JP);
Japan Servo Co., Ltd., Tokyo (JP)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO-1050) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,795,774.

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

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Patent No.7,890,493 :
Chen :
Issue Date: February 15, 2011 :
Application No. 11/781,073 :
Filed: July 20, 2007 :
Attorney Docket No. 16113-398001/GP-784-00-US :

DECISION FOR REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed April 15, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from three hundred and fifty-four (354) days, to four hundred and eighty-six (486) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given TWO (2) MONTHS from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On February 15, 2011, the above-identified application matured into U.S. Patent No. 7,890,493, with a revised patent term of 354 days. By the instant petition, patentees assert that the patent term should be adjusted by 486 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). Patentees state:

> Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Request for Continued Examination was filed on March 9, 2010. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on October 6, 2010, thereby closing examination of the application on that date. Thus, no continued examination took place during 133 day period from October 6, 2010 (the mailing date of the Notice of Allowance) until February 15, 2011 (the date the patent was issued). Accordingly, 133 days for "B Delay" should have been included in addition to the 0 days accorded by the Director for a total B Delay of 133 days.

Excerpt taken from "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed April 15, 2011, Pgs. 2-3.

Patentees' argument has been considered, but is not persuasive. 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 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. The "B" period of delay is 0 days[1].

In view thereof, the patent term adjustment of 354 days indicated in 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.

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

[1] It is noted that patentee states that there is a period of overlap of 1 day. It is noted, however, that there is no period of B delay accorded the application. Accordingly, there is no period of overlap between the "A" delay period and "B" delay period.

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

UNITED STATES 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 28 2011
OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No.7,890,493	:	
Chen	:	DECISION FOR REQUEST
Issue Date: February 15, 2011	:	FOR RECONSIDERATION
Application No. 11/781,073	:	OF PATENT TERM
Filed: July 20, 2007	:	ADJUSTMENT
Attorney Docket No.16113-398001/GP-784-00-US	:	

This is a **revised** decision on the "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed April 15, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from three hundred and fifty-four (354) days, to four hundred and eighty-six (486) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On February 15, 2011, the above-identified application matured into U.S. Patent No. 7,890,493, with a revised patent term of 354 days. By the instant petition, patentees assert that the patent term should be adjusted by 486 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). Patentees state:

> Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Request for Continued Examination was filed on March 9, 2010. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on October 6, 2010, thereby closing examination of the application on that date. Thus, no continued examination took place during 133 day period from October 6, 2010 (the

mailing date of the Notice of Allowance) until February 15, 2011 (the date the patent was issued). Accordingly, 133 days for "B Delay" should have been included in addition to the 0 days accorded by the Director for a total B Delay of 133 days.

Excerpt taken from "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed April 15, 2011, Pgs. 2-3.

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

---

[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.

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.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

---

[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under

35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the

[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on March 9, 2010, and the patent issued by virtue of that request on February 15, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on March 9, 2010, and ending on February 15, 2011, is not included in calculating Office delay.

In view thereof, it is concluded that the patent term adjustment of 354 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

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

NOV 22 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Miranda, et al. :
Application No. 11/781,075 :
Filed: July 20, 2007 :
Attorney Docket No. 2653.001US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2010, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned June 13, 2010 for failure to timely submit a proper reply to the final Office action mailed March 12, 2010. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time pursuant to 37 CFR 1.136(a) was timely submitted. This decision precedes Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a continuing application under 37 CFR 1.53(b); (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/879,469.

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 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioners may request a refund of this fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
MIRANDA, Gregory A. et al.	:	
Application No. 11/781,075	:	DECISION ON PETITION
Filed: July 20, 2007	:	TO WITHDRAW
Attorney Docket No. 2653.001US1	:	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 February 25, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by David Black on behalf of all attorneys of record who are associated with customer No. 21186. All attorneys/agents associated with the Customer Number 21186 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Gregory Miranda at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **GREG MIRANDA**
467 WEST 7TH
WINONA MN 55987

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Biomeasure Incorporated
27 Maple Street
Milford MA 01757-3650

MAILED
FEB 15 2012
OFFICE OF PETITIONS

In re Application of	:	
Dong	:	
Application No. 11/781,096	:	ON APPLICATION FOR
Filed: July 20, 2007	:	PATENT TERM ADJUSTMENT
Docket No. 00537-186005 /	:	
089/US/PCT	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed January 31, 2012. Applicant submits that the patent term adjustment to be indicated on the patent is one thousand two hundred twenty (1220) days, not five hundred fifty-three (553) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicant disputes the period of reduction of 2 days, pursuant to 37 CFR 1.704(b), for Applicant delay in filing a response on August 8, 2011 to the non-final Office action, mailed May 6, 2011.

To the extent that applicant requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of

issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that applicant otherwise requests correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is five hundred fifty-

[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.

five (555) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 1, 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 553 days.

Applicant disputes the period of reduction of 2 days, pursuant to 37 CFR 1.704(b), for Applicant delay in filing a response on August 8, 2011, a Monday, to the non-final Office action, mailed May 6, 2011.

Applicant argues the Office miscalculated a reduction based on an asserted misinterpretation of 35 U.S.C. 154(b)(2)(C)(ii). Applicant argues a three month date (37 CFR 1.704(b)) should be calculated from the first business day after a weekend. Accordingly, patentees argues the reply filed on August 8, 2011 in response to a non-final Office action, mailed May 6, 2011, should merit no reduction.

This reduction has been reconsidered, and it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. Accordingly, the period of reduction of 2 days is being removed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is **five hundred fifty-five (555) days** -- 555 days of Office delay minus 0 days of Applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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).

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the

address currently of record until appropriate instructions are received.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

CC: RICARDO J. MORAN
HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPT.
2200 PENNSYLVANIA AVE., NW
WASHINGTON, D.C. 20037

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/781,096

Filing or 371(c) Date:	07-20-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	555
A Delays:	555	PTO Manual Adjustments:	2
B Delays:	0	Applicant Delays:	2
C Delays:	0	Total PTA Adjustments:	555

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
65	02-08-2012	Adjustment of PTA Calculation by PTO	2		0
56	11-01-2011	Mail Notice of Allowance			0
55	10-31-2011	Office Action Review			0
54	10-31-2011	Office Action Review			0
53	10-25-2011	Office Action Review			0
52	10-25-2011	Document Verification			0
51	10-25-2011	Notice of Allowance Data Verification Completed			0
50	10-24-2011	Allowability Notice			0
48	08-17-2011	Date Forwarded to Examiner			0
47	08-08-2011	Response after Non-Final Action		2	46
46	05-06-2011	Mail Non-Final Rejection			0
45	05-05-2011	Office Action Review			0
44	05-04-2011	Non-Final Rejection			0
43	03-07-2011	Date Forwarded to Examiner			0
42	03-03-2011	Response after Non-Final Action			0
41	12-06-2010	Mail Non-Final Rejection			0
40	12-04-2010	Non-Final Rejection			0
39	09-22-2010	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0

38	09-24-2010	Date Forwarded to Examiner		0
37	09-22-2010	Response after Non-Final Action		0
36	06-30-2010	Mail Non-Final Rejection		0
35	06-30-2010	Non-Final Rejection		0
34	01-17-2008	Information Disclosure Statement considered		0
33	07-20-2007	Information Disclosure Statement considered		0
31	05-11-2010	Date Forwarded to Examiner		0
30	04-27-2010	Response to Election / Restriction Filed		0
29	03-29-2010	Mail Restriction Requirement	555	0.5
28	03-26-2010	Restriction/Election Requirement		0
27	01-23-2010	Preliminary Amendment		0
25	05-08-2008	PG-Pub Issue Notification		0
24	01-17-2008	Reference capture on IDS		0
23	01-17-2008	Information Disclosure Statement (IDS) Filed		0
22	02-11-2008	Case Docketed to Examiner in GAU		0
21	01-17-2008	Information Disclosure Statement (IDS) Filed		0
20	10-09-2007	Preliminary Amendment		0
19	11-02-2007	IFW TSS Processing by Tech Center Complete		0
17	07-20-2007	Preliminary Amendment		0
16	07-20-2007	Electronic Information Disclosure Statement		0
15	10-30-2007	CRF Is Flawed Technically / Not Entered into Database		0
14	10-26-2007	Application Dispatched from OIPE		0
13	10-18-2007	Sent to Classification Contractor		0
12	10-19-2007	Filing Receipt - Updated		0
11	10-09-2007	Additional Application Filing Fees		0

10	10-09-2007	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
9	10-09-2007	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
8	08-10-2007	Notice Mailed--Application Incomplete--Filing Date Assigned	0
7	07-20-2007	CRF Disk Has Been Received by Preexam / Group / PCT	0
6	08-06-2007	CRF Is Good Technically / Entered into Database	0
5	07-25-2007	Cleared by OIPE CSR	0
4	07-25-2007	CASE CLASSIFIED BY OIPE	0
3	07-24-2007	IFW Scan & PACR Auto Security Review	0
2	07-20-2007	Information Disclosure Statement (IDS) Filed	0
1	07-20-2007	Initial Exam Team nn	0
0.5	07-20-2007	Filing date	0

Close Window

24 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

20311
LUCAS & MERCANTI, LLP
475 Park Avenue South
15th Floor
New York, NY 10016

In re Application of :
KIM *et al* :
U.S. Application No.: 11/781,115 :
Filing Date: July 20, 2007 :
Attorney's Docket No.: 428.1139 :
For: HERBAL MIXTURE EXTRACT OF NOTOGINSENG RADIX, REHMANNIAE RADIX PREPARATA AND ACANTHOPANACIS CORTEX AND COMPOSITION COMPRISING THE SAME FOR PREVENTION AND TREATMENT OF ARTHRITIS :

DECISION

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 30, 2010 which is hereby **GRANTED** as follows:

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). The petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Items (2) and (3) were previously provided.

Regarding item (1), a reference that the "application is a continuation of PCT International Application No. PCT/KR2006/000199, filed on January 18, 2006, which claims the benefit of priority from Korean Patent Application No. 10-2005-0005425 filed on January 20, 2005" has been provided in the Amendment to the Specification. Applicants also included a Supplemental Application Data Sheet listing the proper benefit claim to the international application.

All items of 37 CFR 1.78(a)(3) are now complete.

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 application, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1655 for any further action as deemed appropriate in light of this decision, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed international application.

Any questions concerning this decision may be directed to James Thomson at (571) 272-3302.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/781,115	07/20/2007	1655	425	428.1139	17	1

CONFIRMATION NO. 5268

CORRECTED FILING RECEIPT

20311
LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

OC000000043177133

Date Mailed: 08/24/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jung-Keun Kim, Seongnam-si, KOREA, REPUBLIC OF;
Se-Won Kim, Cheonan-si, KOREA, REPUBLIC OF;
Hyung-Gun Kim, Seoul, KOREA, REPUBLIC OF;
Seon-Yle Ko, Yuseong-gu, KOREA, REPUBLIC OF;
Dong-Heon Baek, Seoul, KOREA, REPUBLIC OF;
Sunhwa Chang, Chonan-si, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number 20311

Domestic Priority data as claimed by applicant

This application is a CON of PCT/KR2006/000199 01/18/2006

Foreign Applications

REPUBLIC OF KOREA 10-2005-0005425 01/20/2005

Request to Retrieve - This application either claims priority to one or more applications filed in an intellectual property Office that participates in the Priority Document Exchange (PDX) program or contains a proper **Request to Retrieve Electronic Priority Application(s)** (PTO/SB/38 or its equivalent). Consequently, the USPTO will attempt to electronically retrieve these priority documents.

If Required, Foreign Filing License Granted: 08/21/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/781,115**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

HERBAL MIXTURE EXTRACT OF NOTOGINSENG RADIX, REHMANNIAE RADIX PREPARATA AND ACANTHOPANACIS CORTEX AND COMPOSITION COMPRISING THE SAME FOR PREVENTION AND TREATMENT OF ARTHRITIS

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENING LI
PINSENT MASONS LLP
c/o FOUNTAIN LAW GROUP, INC
18201 Von Karman Avenue, Suite 960
Irvine CA 92612

MAILED
OCT 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Herbert Chen, et al.	:	
Application No. 11/781,142	:	ON PETITION
Filed: July 20, 2007	:	
Attorney Docket No. 636477-07007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 3, 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 May 4, 2010. The Notice of Abandonment was mailed September 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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) 272-2991.

This application is being referred to Technology Center AU 1647 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

11-4-2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No : 7,666,623 B2
Ser. No. : 11/781,222
Inventor(s) : Volker Buttcher, et. al.
Issued : February 23, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Leonard R. Svensson
Birch, Stewart, Kolasch & Birch
12770 Hogh Bluff Drive
Suite 260
San Diego, CA 92130

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 20 2011
OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

Patent No. 7,666,623	:	
Issue Date: February 23, 2010	:	
Application No. 11/781,222	:	ON PETITION
Filed: July 20, 2007	:	
Attorney Docket No. 0147-0253PUS2	:	

This is a decision on the petition filed April 27, 2011, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 20 2011
OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

Patent No. 7,833,751	:	
Issue Date: November 16, 2010	:	
Application No. 11/781,226	:	ON PETITION
Filed: July 20, 2007	:	
Attorney Docket No. 0147-0253PUS3	:	

This is a decision on the petition filed April 27, 2011, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618.. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
Wei et al. :
Application No. 11/781,227 : DECISION ON PETITION
Filed: July 20, 2007 :
Attorney Docket No. MSI-5170US :

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on June 17, 2011.

The petition is **GRANTED.**

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on September 30, 2010. The non-final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application became abandoned on December 31, 2010. A Notice of Abandonment was mailed on May 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1620.00, and (3) a statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7638311 B2
Application No.: 11/781228
Inventor(s) : Volker BUTTCHER et al.
Issued : 12/29/2009
Attorney Docket No.: 0147-0253PUS4

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 04/12/2011

Address: Leonard R. Svensson
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130

ts/

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAY 20 2011
OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

Patent No. 7,638,311	:	
Issue Date: December 29, 2009	:	
Application No. 11/781,228	:	ON PETITION
Filed: July 20, 2007	:	
Attorney Docket No. 0147-0253PUS4	:	

This is a decision on the petition filed April 27, 2011, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL ARSSOV
7930 AVENIDA NAVIDAD #116
SAN DIEGO CA 92122

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Paul (Plamen) Arssov	:	
Application No. 11/781,245	:	DECISION ON PETITION
Filed: July 21, 2007	:	
Title: Variable Instruction Set Microprocessor	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2011 and the Supplemental petition filed March 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, April 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 July 13, 2010. A Notice of Abandonment was mailed December 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114 (submitted March 7, 2011); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 2183 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed March 7, 2011.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEYER LAW
GROUP LLP/ SANDISK
P.O. BOX 1687
CUPERTINO CA 95015-1687

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Perry	:	
Application No.: 11/781,259	:	DECISION
Filing Date: 22 July, 2007	:	
Attorney Docket No. SDK1P067B/MSA-1056Y	:	

This is a decision on the petition, filed on 28 December, 2009, supplemented thereafter, pursuant to 37 C.F.R. §1.137(f)—treated as a petition pursuant to 37 C.F.R. §1.137(b)—to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (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 C.F.R. §1.137(f).)

The petition pursuant to 37 C.F.R. §1.137(f) is **GRANTED**.

The record discloses that, on 22 July, 2007, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

On 2 November, 2009, Petitioner sought, pursuant to 35 U.S.C. § 122(b)(2)(B)(ii), the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application be revived because this application became abandoned for failure to notify the USPTO within 45 days of the filing of a corresponding international or foreign application. In this regard, Petitioner stated that an international or foreign application corresponding to the instant application was filed on a date that is averred to be prior to the date of filing the instant application—however, the papers then submitted did not indicate the date of the foreign/international-filed application. The petition was dismissed on 23 December, 2009.

On 28 December, 2009, Petitioner re-advanced his petition, and Petitioner supplemented that petition on 4 August, 2010, to provide all requisite information.

BACKGROUND

The record reflects that:

The instant application was filed with a Request for Nonpublication.

On 2 November, 2009, Petitioner sought, pursuant to 35 U.S.C. § 122(b)(2)(B)(ii), the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application be revived because this application became abandoned for failure to notify the USPTO within 45 days of the filing of a corresponding international or foreign application. In this regard, Petitioner stated that an international or foreign application corresponding to the instant application was filed on a date that is averred to be prior to the date of filing the instant application—however, the papers then submitted did not indicate the date of the foreign/international-filed application. The petition was dismissed on 23 December, 2009.

On 28 December, 2009, Petitioner re-advanced his petition, and Petitioner thereafter supplemented that petition. On renewed petition Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on *23 October, 2007*. However, the Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c), Petitioner failed to timely notify the Office of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition pursuant to 37 C.F.R. §1.137(b) to accept an unintentionally delayed notification to the Office of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

> (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
> (2) the petition fee as set forth in 37 C.F.R. §1.17(m); and
> (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with the regulations at 37 C.F.R. §1.137. Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. §122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication *11 November, 2010.*

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

As to Allegations of
Failure to Notice

It appears that the requirements under 37 C.F.R. §1.137(f) have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(f) and considered under 37 C.F.R. §1.137(b) is **granted**.

This application is being released to Technology Center/AU 2186 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the decision has been acknowledged by the Technology Center/AU. It is noted that all inquiries with regard to substantive examination need be directed to the Technology Center/AU where change of status must be effected—that does not occur in the Office of Petitions.

[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).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

[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

MAILED
APR 20 2011
OFFICE OF PETITIONS

Capitol City TechLaw
10480 Little Patuxent Parkway
Suite 400
Columbia MD 21044

In re Application of	:	
Dapkunas	:	
Application No. 11/781,341	:	ON APPLICATION FOR
Filed: July 23, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. **051-001**	:	

This is in response to the "Application for Patent Term Adjustment" filed March 23, 2011, which is properly treated under 37 CFR 1.705(b). Applicant submits that the patent term adjustment is eight hundred and sixty (860) days, not six hundred and seventy-four (674) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent and overlap considerations.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on February 1, 2011.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COATS & BENNETT/QIMONDA
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of

Ralf KLEIN, et al
Application No. 11/781,374
Filed: July 23, 2007
Attorney Docket No. 6343-066

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2010.

The request is **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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 28 2010

OFFICE OF PETITIONS

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

In re Application of	:	
Sang-Hoon Chu, et al.	:	
Application No. 11/781,382	:	DECISION ON PETITION
Filed: July 23, 2007	:	
Attorney Docket No. SEC.1952	:	

This is a decision on the petition, filed July 20, 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 May 24, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 24, 2010. The Notice of Abandonment was mailed June 18, 2010.

Petitioner asserts that the Notice dated February 24, 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 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 petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2627 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of February 24, 2010. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/Ramesh Krishnamurthy/

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED
OCT 29 2010
OFFICE OF PETITIONS

In re Application of	:
Sugiyama et al.	:
Application No. 11/781,491	: DECISION ON PETITION
Filed: July 23, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 500.31617CC3	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3), filed August 16, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 37 CFR §§ 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which

includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed August 16, 2010, fails to state the relationship of Application No. 08/464,461, filed June 5, 1995, to the instant application.

Further, the present application 11/781,491, filed July 23, 2007, is claiming the benefit of nonprovisional application No. 08/464,461, now U.S. Patent 5,614,938, filed June 5, 1995, under U.S.C 120. Copendency does not exist between these applications and the benefit claim to the prior-filed nonprovisional application is improper because the later-filed application was not filed prior to the patenting of the prior application. Copendency between the instant application and the prior application is required. Applicant is required to delete the reference to the prior-filed application from the first sentence(s) of the specification or the application data sheet, depending on where the reference was originally submitted, unless applicant can establish that this application, or an intermediate nonprovisional application, was filed prior to the abandonment date of the nonprovisional application, the benefit claim will not be accepted.

Further, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the reference to the prior-filed applications from the first sentence(s) of the specification, or the application data sheet, depending on where the reference was originally submitted, unless applicant can establish copendency between the applications and deleting the incorporation by reference statement along with a renewed petition under 37 CFR 1.78(a)(3) is required.

Further correspondence with respect to this matter should be addressed as follows:

---

[1] *Note* 37 CFR 1.121

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:
Sugiyama et al.	:
Application No. 11/781,491	: DECISION ON PETITION
Filed: July 23, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 500.31617CC3	:

This is a decision on the renewed 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 the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 37 CFR §§ 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is still not acceptable as drafted since it improperly incorporates by reference the prior-filed Application No. 07/958,162. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same

> subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c). Specifically, the incorporation by reference statement cannot be used in regard to Application No. 07/958,162, filed October 8, 1992.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the reference deleting the incorporation by reference statement along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

---

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of	:
Sugiyama et al.	:
Application No. 11/781,491	: DECISION ON PETITION
Filed: July 23, 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 500.31617CC3	:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3), filed December 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 for the benefit of the prior-filed nonprovisional application No. 07/958,162 filed October 8, 1992, as set forth in the amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 37 CFR §§ 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR § 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed application, accompanies this decision on petition.

The duplicate payment of the petition surcharge fee in the amount of $1,410, submitted on November 15, 2010, will be refunded back to petitioner's credit card account in due course.

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2861 for appropriate action on the amendment submitted November 15, 2010, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
11/781,491	07/23/2007	2861	1000	500.31617CC3	3	3

CONFIRMATION NO. 5998

CORRECTED FILING RECEIPT

20457
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

OC000000046403434

Date Mailed: 03/07/2011

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)

Hisataka Sugiyama, Kodaira-shi, JAPAN;
Takeshi Maeda, Kokubunji-shi, JAPAN;
Kiyoshi Matsumoto, Kokubunji-shi, JAPAN;
Motoyasu Terao, Tokyo, JAPAN;
Shigenori Okamine, Kodaira-shi, JAPAN;
Tetsuya Nishida, Hachioji-shi, JAPAN;
Harukazu Miyamoto, Kodaira-shi, JAPAN;

Power of Attorney:

David Terry--20178
Donald Antonelli--20296
Melvin Kraus--22466
Donald Stout--26422
Gregory Montone--28141
William Solomon--28565
Ronald Shore--28577
Alan Schiavelli--32087

Domestic Priority data as claimed by applicant

This application is a CON of 08/427,866 04/26/1995 PAT 7,286,153
which is a CON of 07/958,162 10/08/1992 PAT 5,414,451

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
JAPAN 03-263561 10/11/1991

If Required, Foreign Filing License Granted: 08/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/781,491**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

THREE-DIMENSIONAL RECORDING AND REPRODUCING APPARATUS

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOSSMAN KUMAR AND TYLER, PC
P.O. BOX 421239
HOUSTON, TX 77242

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of
Carl M. Edwards
Application No. 11/781,522
Filed: July 23, 2007
Attorney Docket No. NMR4-39902-USC

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition did not get to the proper deciding official in time to process the petition prior to the patent issue. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
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

MAILED

JAN 25 2011

OFFICE OF PETITIONS

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

In re Application of	:	
Jeffrey R. Kollgaard, et al.	:	
Application No. 11/781,614	:	DECISION ON PETITION
Filed: July 23, 2007	:	
Attorney Docket No. 07-0377	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before December 20, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 20, 2010. Accordingly, the date of abandonment of this application is December 21, 2010. The Notice of Abandonment was mailed January 5, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) corrected formal drawings , (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Office of Data Management for processing into a patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 12 2010

OFFICE OF PETITIONS

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Patent No. 7,669,014	:
Jarno Mikael Tuominen	: DECISION ON REQUEST
Issue Date: February 23, 2010	: FOR RECONSIDERATION OF
Application No. 11/781,617	: PATENT TERM ADJUSTMENT
Filed: July 23, 2007	: AND
Attorney Docket No. 42933/331678	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION
	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ISSUED PATENT (37 C.F.R. § 1.705)", filed March 3, 2010. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 260 to 377 days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred seventy-seven **(377)** days.

On February 23, 2010 the application matured into U.S. Patent No. 7669,014 with a revised PTA thereon of 260 days. On March 3, 2010, patentee timely submitted a request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred seventy-seven (377) days. Patentee disputes the reduction of one hundred eighteen (117) days attributed to patentee for the submission of drawings after the Notice of Allowance was mailed.

This application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred seventy-seven (377) days based on an adjustment for PTO delay of three hundred seventy-seven (377) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1).The

reduction of one hundred seventeen (117) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(c)(10) is at issue.

The reduction of 117 days has been found to be incorrect. A review of the application file, as stated by Patentee, supports a conclusion that no drawings were filed in this application after the mailing of the notice of allowance.

In view thereof, the patent term adjustment indicated in the patent should have been three hundred seventy-seven **(377)** days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred seventy-seven (377) days**.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,669,014 B2

DATED : February 23, 2010

INVENTOR(S) : Jarno Mikael Tuominen

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 (260) days

Delete the phrase "by 260 days" and insert – by 377 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

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas TX 75219

MAILED
FEB 16 2011
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Griffith et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 11/781,671	:	
Filed: July 23, 2007	:	
Attorney Docket No. 30346.7	:	

This is a decision on the PETITION UNDER 37 C.F.R. §1.78(a)(3) FOR ACCEPTANCE OF UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. § 120, filed December 22, 2010, to accept an unintentionally delayed claim to prior-filed application No. 10/326,386.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i), of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii), and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for

priority set forth on petition was not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month periods specified in 37 CFR §§ 1.78(a)(2)(ii) have expired. Thus, the instant petition is appropriate. In addition, the petition includes payment of the surcharge and the required statement of unintentional delay.

On petition, the reference to prior-filed application No. 10/326,386 has been included in an amendment.

However, the amendment is not proper as it includes an improper incorporation by reference statement. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. 132(a)). Accordingly, if an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application, unless an incorporation by reference statement of the prior application was presented upon filing of the application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). No such incorporation by reference was present in this application on filing.

In view thereof, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Receipt of the amendment filed December 22, 2010 in response to the non-final Office action mailed September 28, 2010 is acknowledged. The petition to accept the delayed claim of priority is dismissed. Nonetheless, the application is forwarded to the examiner for consideration otherwise of the reply filed December 22, 2010.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STATTLER-SUH PC / NETLOGIC
60 SOUTH MARKET STREET
SUITE 480
SAN JOSE CA 95113

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application:	:	
Sidiropoulos et al.	:	
Application No. 11/781,712	:	ON PETITION
Filed: July 23, 2007	:	
Attorney Docket No. NTLG.P0018	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 1, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

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

CERAMATEC, INC.
2425 SOUTH 900 WEST
SALT LAKE CITY UT 84119

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Elangovan et al.	:	
Application No. 11/781,718	:	DECISION ON PETITION
Filed: July 23, 2007	:	
Attorney Docket No. 6000.2.17	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office Communication on or before May 2, 2011, as required by the letter mailed March 30, 2011. The letter set a shortened statutory period for reply of thirty (30) days. Accordingly, the date of abandonment of this application is May 3, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Applicant's given name without abbreviations; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

MAILED
JUL 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Gerald Morrison	:	
Application No. 11/781,811	:	DECISION GRANTING PETITION
Filed: July 23, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 204694.00154	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 2629 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 : 01/30/11

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: 11781839 Patent No.: 7849789

CofC mailroom date: 01/04/11

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
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Tu Hoang/

AU3742

Formatted: French (France)

SPE Tu Hoang
Art Unit 3742

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARY LAMBERT
30 INGRID PL
OLDSMAR, FL 34677

MAILED
DEC 29 2010
OFFICE OF PETITIONS

In re Application of	:	
Gary E. LAMBERT	:	
Application No. 11/781,857	:	DECISION ON PETITION
Filed: July 23, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **Ltemp**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3611 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted March 29, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sterne, Kessler, Goldstein &
Fox P.L.L.C
1100 New York Avenue, N.W.
Washington DC 20005

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Patent No. of Weaver et al.	:	DECISION ON REQUEST
Patent No. 7,718,431	:	FOR RECONSIDERATION OF
Issue Date: May 18, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/781,871	:	and
Filed: July 23, 2007	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 2715.1050009/	:	CERTIFICATE OF CORRECTION
SAS/KKH/HMA	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. 1.705(d)," filed July 16, 2010. Patentees request that the patent term adjustment indicated in the patent be corrected from three hundred eighty-six (386) days to four hundred fifty-seven (457) 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 to four hundred fifty-seven (457) days is **granted to the extent indicated herein.**

On May 18, 2010, the above-identified application matured into U.S. Patent No. 7,718,431. The instant request for reconsideration filed July 16, 2010 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 386 days. Patentees dispute two reductions, both pursuant to 37 CFR 1.704(c)(10), of (1) seventy (70) days due to an information disclosure statement (IDS) being filed on March 4, 2010 and (2) six (6) days due to an amendment under Rule 312 purportedly being filed on March 4, 2010. It is noted a Notice of Allowance was mailed prior to March 4, 2010, on December 29, 2009.

A review of the PALM calculations for this application reveals that the initial determination of PTA was reduced by 70 days for the submission of the IDS after the mailing of the notice of allowance. See 37 CFR 1.704(c)(10). However, the reduction should be 6 days, not 5 days as argued by patentees.

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;

Pursuant to 37 CFR 1.704(c)(10), the Office should have entered a period of reduction of 6 days, counting the number of days in the period beginning on March 4, 2010, the date the IDS was filed, and ending on and including March 9, 2010, the date the Office action in response to the IDS was mailed. Accordingly the period of reduction of 70 days will be removed and a period of 6 days will be entered in connection with the filing of an IDS on March 4, 2010.

A review of the PALM calculations for this application reveals that the initial determination of PTA was reduced by 6 days for the submission of an amendment under Rule 312 after the mailing of the notice of allowance. However, a review of the application record supports a conclusion that applicants did **not** file a Rule 312 amendment in this application on March 4, 2010. It is agreed that applicants did not fail to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of reduction of 6 days will be removed.

In light thereof, the correct patent term adjustment is 456 days, which is 462 days of delay under 35 U.S.C. 154(b)(1)(A) reduced by 6 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by four hundred fifty-six (456)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,718,431 B2

DATED : **May 18, 2010** **DRAFT**

INVENTOR(S) : Weaver 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 386 days

Delete the phrase "by 386 days" and insert – by 456 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

STONEMAN LAW PATENT GROUP
P.O. BOX 40070
PHOENIX AZ 85067-0070

MAILED
JAN 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Vasileios Bougioukos	:	
Application No. 11/781,897	:	DECISION ON PETITION
Filed: July 23, 2007	:	
Attorney Docket No. P06623	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before November 24, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 24, 2010. Accordingly, the date of abandonment of this application is November 25, 2010. A Notice of Abandonment was mailed December 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) An Amendment that contends that no Corrected Drawings are required since "In the Notice of Allowance dated August 24, 2010, the Examiner objected to the drawings for failing to show the 'at least one wedge' recited in claim 50." And further, "Applicant has canceled claim 50, rendering this objection moot.", (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent and review of the Corrected Drawings submitted with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : June 24, 2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/782172 Patent No.: 7936337

CofC mailroom date: 6-18-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Magdalene Talley
Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The corrections are ok

Abbas Abdulselam 2629

SPE **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/18/11

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: 11782175 Patent No.: 7695665

CofC mailroom date: 10/05/11

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]

Note: **Should the changes in the claims be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X Approved — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Christina Johnson/ AU1742

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/18/11

TO SPE OF : ART UNIT: 2189

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/782,238 Patent No. 8,015,359

CofC mailroom date 8/4/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

/Reginald G. Bragdon/ ___2189___
SPE **Art Unit**