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O'BRIEN JONES, PLLC
1951 KIDWELL DRIVE
SUITE 550 B
TYSONS CORNER VA 22182

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
JOABSSON, Fredrik et al.	:	
Application No. 11/795,250	:	DECISION ON PETITION
Filed: March 24, 2008	:	TO WITHDRAW
Attorney Docket No. **1054.0003-0000**	:	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 17, 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 does not include an acceptable current correspondence address for future communications from the Office.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **J.A. LINDEMAN & CO. PLLC**
3190 FAIRVIEW PARK DRIVE
SUITE 480
FALLS CHURCH, VA 22042

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1951 KIDWELL DRIVE
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MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
JOHNSSON, Markus et al.	:	
Application No. 11/795,250	:	DECISION ON PETITION
Filed: May 12, 2008	:	TO WITHDRAW
Attorney Docket No. **1054.0001-00000**	:	FROM RECORD
	:	

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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 571-272-4231.

Michelle R. Eason
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United States Patent and Trademark Office
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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

MAILED
FEB 02 2012
OFFICE OF PETITIONS

In re Application of:
MORSE, Robert
Application No.: 11/795,276
35 U.S.C. 371 Date: July 13, 2007
Int. Appl. No.: PCT/GB2006/00128
Int. File Date: January 16, 2006
Attorney Docket No.: 1-29205

DECISION ON PETITION
TO REVIVE
UNDER 37 CFR 1.137(a)

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 CFR 1.137(a), filed December 22, 2011, to revive the above-identified application. The requisite $620.00 petition fee (Fee Code 1452) has been submitted.

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

On July 13, 2007, the above-identified United States application for patent was filed with the United States Patent and Trademark Office (USPTO) as a PCT National Stage filing under 35 U.S.C. 371 and accorded Application No. 11/795,276.

On December 7, 2010, the USPTO mailed a final Office Action that set forth a three (3) month shortened statutory period for reply. This shortened statutory period being extendible up to six (6) months, pursuant to 37 CFR 1.136(a), from its December 7, 2010 mailing date with the timely filing of a petition for an extension of time accompanied by the requisite extension of time fee.

On June 21, 2011, the USPTO mailed a Notice of Abandonment notifying applicant that the present application has been held abandoned on the basis of "[a]pplicant's failure to timely file a proper reply to the Office letter of 07 December 2010." The application became abandoned at the expiration of Monday, March 7, 2011, the last day of the three month shortened statutory period for reply set forth in the December 7, 2010 final Office Action since no extension of time was obtained.

On December 22, 2011, applicant filed the present Petition for Revival urging, inter alia, that the delay in filing a response to the December 7, 2010 final Office Action was unavoidable. The present Petition for Revival was accompanied by, inter alia, a "Statement in Support of Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a)", a "DECLARATION OF ERIC WALLS", a "DECLARATION OF STEPHEN HUTCHINS", a "Notice of Appeal", a "PETITION FOR EXTENSION OF TIME", a revocation and new power of attorney entitled "POWER OF ATTORNEY TO PROSECUTE APPLICTAIONS BEFORE THE USPTO"), and a "STATEMENT UNDER 37 CFR 3.73(b)".

On December 29, 2011, the USPTO mailed a "DENIAL OF REQUEST FOR POWER OF ATTORNEY". A revive of the Statement under 37 CFR 3.73(b), at this time, reveals that the Statement did not include documentary evidence of a chain of title from the original owner to Keronite International Limited (37 CFR 3.73(b)((1)(i)), or a complete statement where documentary evidence of a chain of title from the original owner to Keronite International Limited is recorded in the assignment records of the USPTO (e.g., reel and frame number) (37 CFR 3.73(b)(1)(ii)).

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 by 37 CFR 1.137(d).

The instant petition lacks Item (3) above, 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.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex Parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887). Petitioner should note that the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattulath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex Parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987). The requirement in 35 U.S.C. S 133 for a showing of unavoidable delay requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay from the time an applicant becomes aware of the abandonment of the application until the filing of a petition to revive. See, In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat, 1990). Finally, a petition under 35 U.S.C. S 133 cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable" within the meaning of 35 U.S.C. S 133. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In the Statement in Support of Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 C.F.R. § 1.137(a) filed with the Present Petition, petitioner states, in part, that:

"3. Thermastrate was insolvent for the entire timeperiod [sic] between December 7, 2010 until June 7, 2011, the statutory period for responding to the final Office Action (Declaration of Eric Walls, paragraph 2). On June 1, 2011, Thermastrate entered into liquidation with Eric Walls (hereinafter "the Liquidator") being appointed as liquidator of Thermastrate (Declaration of Eric Walls, paragraph 2). Thermastrate was still in liquidation as of September 26, 2011 (Declaration of Eric Walls, paragraph 2)."

4. Between December 7, 2010 and June 7, 2011, the period for responding to the final Office Action, Thermastrate was constrained from submitting a reply to the final Office Action under the solvency laws of the United Kingdom (Declaration of Eric Walls, paragraph 4).

5. On June 21, 2011, a Notice of Abandonment for the '276 application was issued in view of Thermastrate's inability to file a reply to the final Office Action (Exhibit 4).

6. On September 26, 2011, Thermastrate, acting by the Liquidator, assigned the rights to the '276 application to Keronite International Limited (hereinafter "Keronite") (Exhibit 5). Upon being assigned the rights to the '627 [sic] application, Keronite initiated the process for the timely filing of a Petition to Revive the '276 application under 37 C.F.R. § 1.137(a) (Declaration of Stephan Hutchins, paragraph 3).

7. In view of the above facts and the solvency laws of the United Kingdom, Keronite respectfully submits that the failure to respond to the final Office Action prior to June 7, 2011 was unavoidable, and requests acceptance of the attached Notice of Appeal and petition for three-month extension of time in response to the final Office Action."

The entire time period of the subject delay for which petitioner is now urging was unavoidable commenced with the mailing of the final Office Action on December 7, 2010 and will end with the filing of a grantable petition to revive. Declarant Eric Walls declares in Item 2 of his Declaration that he was appointed liquidator of the assets of Thermastrate Limited on June 1, 2011 when Thermastrate Limited entered liquidation. This June 2, 2011 appointment date occurred only six (6) days prior to last day, i.e., June 7, 2011, of the expiration of the full six month statutory period from the December 7, 2010 final Office Action. By virtue of his June 1, 2011 appointment as a liquidator for Thermastrate, it would appear that Declarant Walls could only attest to the circumstances and events surrounding the delay that occurred after his appointment on June 1, 2011 and for which he has firsthand knowledge. Declarant Walls provides no discussion supported by documentary that establishes, with reasonable certainty, that he actually possesses firsthand knowledge of the actual facts surrounding the subject delay from the December 7, 2011 mailing of the final Office Action until his appointment on June 1, 2011. Declarant Walls provides no documentary evidence, e.g., copies of court documents, etc., that support his averments regarding his appointment as a liquidator for Thermastrate Limited.

In regard to Item 3 of the Declaration of Eric Walls, Declarant Walls avers that he is "familiar with the insolvency history of Thermastrate Limited and "[b]ased on my knowledge of the facts and the information I have available, Thermastrate Limited became insolvent between December 7, 2010 and June 7, 2011." Declarant Walls provides no discussion with supporting documentary evidence that establish the metes and bounds of his alleged familiarity with the insolvency history of Thermastrate Limited. Likewise, Declarant Walls provides no discussion with supporting documentary evidence that establishes the "knowledge of the facts and information I have available" that he relied upon to arrive at his conclusion that "Thermastrate Limited became insolvent between December 7, 2010 and June 7, 2011". It is unclear if Declarant Walls is averring that Thermastrate Limited became insolvent (1) at some point "between December 2, 2010 and June 7, 2011", (2) for the entire time period "between December 2, 2010 and June 7, 2011" that is referred to in above Item 3 of the Statement in Support of Petition for Revival, (3) or some other time period "between December 7, 2010 and June 7, 2011".

It is pointed out that insolvency is not limited to only mean that there are no sources of money to the insolvent entity. How did the insolvency proceedings prevent Thermastrate Limited from dealing with all of its assets? Did Thermastrate Limited, or any responsible party, pay any bills, debts, etc., during the period from December 7, 2010 to June 7, 2011? Thus a complete showing is required of Thermastrate Limited's, or its responsible party, financial condition from December 7, 2010 to June 7, 2011, including all income, expenses, assets, credit, and obligations, which made the delay in responding to the final Office Action mailed December 7, 2010 unavoidable.

In regard to Item 4 of the Declaration of Eric Walls, Declarant Walls avers that he is "familiar with the insolvency laws of the United Kingdom" and "[b]ased on my knowledge of the insolvency laws of the United Kingdom, between December 7, 2010 and June 7, 2010, Thermastrate was constrained from filing a reply to the final Office Action issued by the United States Patent and Trademark Office on December 7, 2010". Declarant Walls provides no discussion with supporting documentary evidence that establishes (1) the relevant insolvency laws of the United Kingdom in effect between December 7, 2010 and June 7, 2011, (2) the specific portion(s) of the relevant insolvency laws of the United Kingdom that, in fact, unavoidably "constrained" Thermastrate Limited "from filing a reply to the final Office Action issued by the United States Patent and Trademark Office on December 7, 2010", and (3) any United States statutory authority that relieves an insolvent United Kingdom entity from their legal obligations in the United States of America and, in particular, United States patent law, rules, practice, policy, etc., by virtue of the laws promulgated by the United Kingdom. It is unclear if Declarant Walls is averring that Thermastrate Limited was "constrained from a reply to the final Office Action issued by the United States Patent and Trademark Office on December 7, 2010 (1) at some point "between December 2, 2010 and June 7, 2011", (2) for the entire time period "between December 7, 2010 and June 7, 2011", or (3) some other time period "between December 7, 2010 and June 7, 2011".

In regard to Item 5 of the Declaration of Eric Walls, Declarant Walls provides no documentary evidence that establishes that "[o]n September 26, 2011, Thermastrate, acting through its liquidator, assigned the rights of U. S. Application Serial No. 11/795,276 to Keronite International Limited". In addition, Declarant Walls has not provided sufficient documentary evidence that establishes that Keronite International Limited is, in fact, the assignee, in particular, the assignee of the entire right, title, and interest of Application No. 11/795,276.

In the Declaration of Stephan Hutchins, in particular, Item 3, Declarant Hutchins avers that "[o]n September 26, 2011, Keronite International Limited was assigned the right to U.S. Application Serial No. 11/795,276" and "[u]pon being assigned the rights of U.S. Application Serial No. 11/795276, Keronite International Limited initiated the process for timely filing a a [sic] Petition to Revive the '276 application under 37 C.F.R. § 1.137(a)". Declarant Hutchins has not provided sufficient documentary evidence that establishes that Keronite International Limited is, in fact, the assignee, in particular, the assignee of the entire right, title, and interest of Application No. 11/795,276. Declarant Hutchins has not provided any discussion with any supporting documentary evidence that would adequately explain how or why Keronite International Limited's actions of initiating the process for timely filing a petition to revive "[u]pon being assigned the right of U.S. Application Serial No. 11/795,276" contributed to the entire delay as being unavoidable. Presuming Keronite International Limited is ultimately established as the assignee of the entire right, title and interest of Application No. 11/795,276, it must be shown as to how and why the delay in action from the date Keronite International Limited acquired the entire right, title, and interest of Application No. 11/795,276 until the date it filed a grantable petition to revive contributed to the unavoidability of the entire delay.

In view of the above discussion, the showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a).

A courtesy copy of this decision is being mailed to the person signing the petition and at the address indicated therein. However, all future correspondence will be directed to the address currently of record until appropriate and acceptable instructions are received.

ALTERNATIVE RELIEF

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to do so, petitioner may wish to consider filing a Petition for Revival under 37 CFR 1.137(b) stating that the delay was unintentional.

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 filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Jeffrey D. Wilford
SHUMAKER & SIEFFERT, P.A.
1625 Radio Drive, Suite 300
Woodbury, MN 55125

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AUG 16 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Thomas BECK, et *al.*	:	
Application No. 11/795,284	:	DECISION ON PETITIONS
Filed: July 12, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. **2004P17573WOUS**	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed November 20, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment.

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

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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 applications under 35 U.S.C. § 120 is **GRANTED.**

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

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

As to the benefit claim under 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 under 37 CFR 1.55(c) is **DISMISSED**.

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 Monica A. Graves at (571) 272-7253.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/795,284	07/12/2007	3742	900	2004P17573WOUS	17	3

CONFIRMATION NO. 1882

CORRECTED FILING RECEIPT

22116
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

OC000000042896319

Date Mailed: 08/04/2010

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

Applicant(s)

Thomas Beck, Panketal, GERMANY;
Silke Settegast, Berlin, GERMANY;
Lutz Wolkers, Berlin, GERMANY;

Assignment For Published Patent Application

SIEMENS AKTIENGESELLSCHAFT, MUENCHEN, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 22116

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP05/57030 12/21/2005
which is a CIP of 10/574,724 04/06/2006
which is a 371 of PCT/EP04/09793 09/02/2004

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 05000729.3 01/14/2005
EUROPEAN PATENT OFFICE (EPO) 03022635.1 10/06/2003
EUROPEAN PATENT OFFICE (EPO) 03024966.8 10/29/2003

If Required, Foreign Filing License Granted: 05/01/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/795,284**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method For Producing a Hole and Associated Device

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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P.O. Box 1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Application of	:	
BECK et al.	:	
Application No. 11/795,284	:	DECISION ON PETITION
Filed: July 12, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 2004P17573WOUS	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed August 31, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign European Application No. 05000729.3, filed January 14, 2005.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed as the US National Stage of International Application No. PCT/EP2005/57030 on July 12, 2007, which is after November 29, 2000 and within 12 months of January 14, 2005 (the filing date of the foreign application to which benefit is now being claimed). On August 31, 2010, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1410.00 was received. 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.

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

This application is being referred to Technology Center AU 3742 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Christopher Bottorff
Petitions Examiner
Office of Petitions

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

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FEB 23 2012

OFFICE OF PETITIONS

In re Application of	:	
Tobie Jean Boutot et al	:	
Application No. 11/795,372	:	DECISION ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. O0232.70003US00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 22, 2011 as required by the Notice of Allowance mailed August 22, 2011. A Notice of Abandonment was mailed on December 5, 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 the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed August 22, 2011, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

In re Application of	:	
Tobie Jean Boutot et al	:	
Application No. 11/795,372	:	DECISION GRANTING PETITION
Filed: July 16, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. O0232.70003US00	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 8, 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 1759 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
Suite 201
WESTFIELD NJ 07090

MAILED

MAY 31 2011

PCT LEGAL ADMINISTRATION

In re Application of
BOGUSLAWSKIJ, Boris
Application No.: 11/795,393
PCT No.: PCT/EP2006/000359
Int. Filing Date: 13 January 2006
Priority Date: 18 January 2005
ATTY Docket No.: 7003/71
For: METHOD OF MAKING CUTTING TOOL EDGES, A DEVICE FOR REALIZING SAME, AND A STRIKER USED IN THE SAID DEVICE

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This decision is in response to applicant's PETITION UNDER 37 C.F.R. 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 21 March 2011.

BACKGROUND

On 13 January 2006, applicant filed international application, PCT/EP2006/000359, which claimed priority of an earlier Russian Federation application filed 18 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 18 July 2007.

On 18 July 2007, applicant filed national stage papers with the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a copy of the International Application as filed required by 35 U.S.C. 371(c)(2).

On 19 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 May 2008, the international application PCT/EP2006/000359 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 21 March 2011, the applicant filed the present petition under 37 CFR 1.137(b).

Application No.: 11/795,393

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer in the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

The application has an International Filing Date under 35 U.S.C. 363 of 13 January 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 March 2011.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Shane Thomas
PCT Legal Detailee
Office of PCT Legal Administration
Tel: (571) 272-6095

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605-1601

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NOV 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Robert D. Kross	:	
Application No. 11/795,454	:	DECISION ON PETITION
Filed: 07/17/2007	:	
Attorney Docket No. K15-019US	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 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 March 23, 2011. A Notice of Abandonment was mailed on July 26, 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 1613 for appropriate action by the Examiner on the reply received on October 24, 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

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	11795518
Filing Date	19-May-2008
First Named Inventor	Katsushi Nakano
Art Unit	2834
Examiner Name	THANH LAM
Attorney Docket Number	133238
Title	LINEAR MOTOR, STAGE APPARATUS AND EXPOSURE APPARATUS

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

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

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

Petition Fee

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

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

☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole inventor

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

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

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

Signature	/Justin T. Lingard/
Name	Justin T. Lingard
Registration Number	61276

UNITED STATES 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 3,2011

In re Application of :

Katsushi Nakano

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11795518

Filed : 19-May-2008

Attorney Docket No : 133238

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 3,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

This application file is being referred to Technology Center AU 2834 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/795,589	07/22/2008	Bernd Heger	2005P00124WOUS	4812

46726 7590 08/25/2010
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

EXAMINER
TAPOLCAI, WILLIAM E

ART UNIT	PAPER NUMBER
3744	

NOTIFICATION DATE	DELIVERY MODE
08/25/2010	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):

NBN-IntelProp@bshg.com

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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of:
HEGER, BERND et al
Serial No.: 11/795,589
Filed: July 22, 2007
Docket: 2005P00124WOUS
Title: ICE-MAKING MACHINE

DECISION ON PETITION

This is a decision on the petition filed on August 16, 2010 seeking withdrawal of the finality of the Office action mailed June 15, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

In finding petitioner's points of argument persuasive, the requested relief is granted. The examiner was requested to enter the amendment filed on August 16, 2010 and mail a new Office action as requested in the petition. The new Office action will be mailed in due course. The petition is granted.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

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: 8007-1144	
Application Number: 11/795,646	Filing Date (or 371(b) or (f) Date): 07/19/2007
Patent Number: 7,662,893	Issue Date: 02/16/2010
First Named Inventor: TOBITA, Etsuo	
Title: METHOD FOR PRODUCING STABILIZED POLYMER	

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 /Eric Jensen/	Date August 9, 2010
Name (Print/Typed) Eric Jensen	Registration Number 37,855

***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 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 09/02/2010

Applicant	: Etsuo Tobita	: DECISION ON REQUEST FOR
Patent Number	: 7662893	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/795,646	: 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 **224** 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 DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 11/15/2011
Patent No.	: 7,997,517 B2
Serial No.	: 11/795,655
Inventor(s)	: Melo et al.
Issue Date	: August 16, 2011
Title	: **CUSHIONING ELEMENT FOR MILL LINER**
./File No.	: **4040.WWAR.PT**

Re: Consideration for Certificate of Correction

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

Respecting the alleged error(s) in your request, the inventors' names are printed in accordance with the typed names on the Declaration, therefore the error was the result of applicants' failure to comply with the requirement that the correct names be indicated on the Declaration or Oath. No correction is in order here under the provisions of Rule 1.322.

In view of the foregoing, your request is hereby denied. However, further consideration will be given your request, upon receipt of a request under the provisions of Rule 1.323. accompanying the appropriate fee of $100. See attached sheet for the decision by the SPE.

A petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name or order of inventor's names, since inventors' names are printed solely in accordance with the typed/printed names (not the signatures) on the Declaration or Oath, and since non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provisions of Rule 1.322 or 1.323 (required fee currently $100), unless a petition is granted. In view of the foregoing, your request is hereby denied.

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.

Mail: Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

ECW

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NOV 10 2011

OFFICE OF PETITIONS

Anatoliy Dmytrovych MILKA
Bobruiskaya Str., 46
Kharkov, 61054 UA UKRAINE

In re Application of :
Anatoliy Dmytrovych MILKA : ON PETITION
Application No. 11/795,666 :
Filed: July 19, 2007 :
Atty. Docket No.: 12315-2

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 February 10, 2011 (Office action), which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned August 11, 2011. A Notice of Abandonment was mailed August 31, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE), and RCE fee, and a submission under 37 CFR 1.114, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

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

The application will be referred to Technology Center Art Unit 3635 for consideration of the filed submission.

Robert DeWitty
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of :
Martin Jordan :
Application No. 11/795,676 : DECISION ON PETITION
Filed: April 10, 2008 :
Attorney Docket No. **1-29219** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 07, 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 April 05, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed January 05, 2011. Accordingly, the date of abandonment of this application is April 06, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been unintentionally delayed.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/795,730	07/20/2007	Carl L. Gibbons	63799A	6405

7590 10/08/2010
The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

EXAMINER
LEYSON, JOSEPH S

ART UNIT	PAPER NUMBER
1744	

MAIL DATE	DELIVERY MODE
10/08/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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MORRISON & FOERSTER, LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of
Dafydd Jones
Application No. 11/795,732
Filed: April 14, 2008
Attorney Docket No. 627782000100

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 14, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on October 22, 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 address of record 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

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AUG 08 2011
OFFICE OF PETITIONS

OBER, KALER, GRIMES & SHRIVER
120 EAST BALTIMORE STREET
BALTIMORE MD 21202-1643

In re Application of	:	
Bruce A. Abel et al.	:	
Application No. 11/795,780	:	DECISION ON PETITION
Filed: May 20, 2008	:	
Attorney Docket No. **027076.077333**	:	

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay. Accordingly, the response to the non-final office action of August 19, 2010, is accepted as having been unintentionally delayed.

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

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

This application is being referred to Technology Center AU 3644 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **ROYAL W. CRAIG**
OBER/KALER
100 LIGHT STREET
BALTIMORE MD 21202

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ARTHUR J. HANSMANN
222 White Sand Lane
Racine WI 53402

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Hua Gao	:	
Application No. 11/795,963	:	DECISION
Filed: July 25, 2007	:	ON PETITION
Attorney Docket No. PCT 1011	:	

This is in response to the "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATED THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed August 27, 2010. This petition is properly treated under 37 CFR 1.137(a) by way of a PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION FOR PATENT as this application has already entered the national stage.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)." Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to timely file a response to the restriction requirement mailed November 18, 2009. The Notice set a period for reply of one (1) month. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 19, 2009. A courtesy Notice of Abandonment was mailed on June 21, 2010.

Petitioner maintains that the Notice was not received at the correspondence address of record. Petitioner states that he filed a change of address in early 2008 and that the patent office did not use his new address in mailing to him.

A grantable petition under § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d). The instant petition includes payment of the petition fee. No terminal disclaimer is required. However, the petition does not include item (1) and fails to meet requirement (3).

First, in order for this application to be revived the required reply to the restriction requirement must be submitted. This petition does not include any reply to the restriction requirement. A copy of the restriction requirement is enclosed in the event that petitioner still needs it to complete a proper reply.

Secondly, for this application to be revived under 37 CFR 1.137(a) petitioner must show that the delay in filing the reply was unavoidable. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case

basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A review of the application supports a conclusion that the restriction requirement mailed November 18, 2009 was mailed to the correspondence address of record of that date. This was the address set forth on the 371 papers of record. The P.306 form, PCT NOTIFICATION OF THE RECORDING OF A CHANGE, does not affect the correspondence address previously provided in the 371. (Given the arguments set forth on petition, the correspondence address has been changed to that of "222 White Sand Lane, Racine WI 53402").

In view thereof, it is concluded that petitioner's argument is not adequate to meet the showing of unavoidable delay. Having not met his burden of establishing that the delay was unavoidable, the petition cannot be granted under §1.137(a).

Alternative Venue

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

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

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

By FAX: (571) 273-8300
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: courtesy Copy of Restriction Requirement originally mailed November 18, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

ARTHUR J. HANSMANN
222 White Sand Lane
Racine WI 53402

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Hua Gao	:	
Application No. 11/795,963	:	DECISION
Filed: July 25, 2007	:	ON PETITION
Attorney Docket No. PCT 1011	:	

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed February 15, 2011. Therein, petitioner argues that the application should be revived based on the unavoidable standard.

A fee for consideration under the unavoidable standard was previously submitted. No fee for consideration under the unintentional standard (which is currently $810 for a small entity has been provided). As payment of the petition fee is a prerequisite for consideration of a petition under 37 CFR 1.137, this petition is solely considered as a renewed petition under 37 CFR 1.137(a).

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)." Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned effective December 19, 2009 for failure to timely file a response to the restriction requirement mailed November 18, 2009. By decision[1]

[1] It is noted that the petition filed August 27, 2010 was properly treated under 37 CFR 1.137(a) as a PETITION TO REVIVE AN UNAVOIDABLY ABANDONED APPLICATION FOR PATENT. As reflected in the text of the prior decision, it

mailed December 20, 2010, the initial petition under 37 CFR 1.137(a) was dismissed for failure to include the required reply and for failure to meet his burden of establishing that the delay was unavoidable. On instant renewed petition, petitioner continues to maintain that the delay was unavoidable as the Notice was not received at the correspondence address of record.

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

On renewed petition, petitioner has submitted the required reply in the form of an election.

However, petitioner still has not shown that the delay in filing the reply was unavoidable. As stated in MPEP 711.03(c),

> where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address.
>
> The following do not constitute proper notification of a change in correspondence address:
> (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;

---

was not, as stated in the first paragraph of the decision, treated as a petition to revive an "unintentionally" abandoned application for patent.

(B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or
(C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Petitioner has not overcome the previous conclusion that the restriction requirement mailed November 18, 2009 was mailed to the correspondence address of record of that date. This was the address set forth on the 371 papers of record. The undersigned has been advised by the Office of PCT legal and it is reiterated that the P.306 form, PCT NOTIFICATION OF THE RECORDING OF A CHANGE, does not affect the correspondence address previously provided in the 371. No other paper shown to have been timely filed to change the correspondence address, it cannot be concluded that the delay was unavoidable.

Thus, it is again concluded that petitioner's argument is not adequate to meet the showing of unavoidable delay. Having not met his burden of establishing that the delay was unavoidable, the petition cannot be granted under §1.137(a).

It is further noted that no terminal disclaimer and fee is required for revival of this application. Accordingly, the terminal disclaimer filed on instant renewed petition has not been entered. If petitioner does not have another basis for filing a terminal disclaimer, refund of the disclaimer fee should be requested on any further renewed petition.

Petitioner has not submitted the fee necessary for consideration of the petition under 37 CFR § 1.137(b)[2] on the basis of unintentional delay. The petition fee is $810 for a small entity, not $70.

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

---

[2] A grantable petition under § 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 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 this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

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

By FAX: (571) 273-8300
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ARTHUR J. HANSMANN
222 White Sand Lane
Racine WI 53402

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Hua Gao	:	
Application No. 11/795,963	:	LETTER
Filed: July 25, 2007	:	
Attorney Docket No. PCT 1011	:	

This is in response to the copy of petition decision filed March 31, 2011. Thereon, petitioner added a note, asking whether he should now send in $810 to file this as an unintentional.

The answer is that petitioner must send in the $810 if he desires consideration under the unintentional standard and no action on the petition will be undertaken until such time as the fee is submitted. The fee for consideration of the petition under 37 CFR 1.137(b) is required in order for the Office to even consider under the unintentional standard the petition filed February 15, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ABSOLUTE TECHNOLOGY
LAW GROUP LLC
3316 W. Wisconsin Avenue
MILWAUKEE WI 53208

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In re Application of	:	
Hua Gao	:	
Application No. 11/795,963	:	DECISION
Filed: July 25, 2007	:	ON PETITION
Attorney Docket No. PCT 1011	:	

This is in response to the "PETITION UNDER 37 C.F.R. § 1.137(b)," filed May 24, 2011[1].

The petition is **GRANTED**.

The above-identified application became abandoned effective December 19, 2009 for failure to timely file a response to the restriction requirement mailed November 18, 2009. By decision mailed December 20, 2010, the initial petition under 37 CFR 1.137(a) was dismissed for failure to include the required reply and for failure to meet his burden of establishing that the delay was unavoidable. By decision mailed March 28, 2011, the renewed petition filed February 15, 2011 was dismissed. By letter mailed April 25, 2011, in response to a communication from petitioner filed March 31, 2011, petitioner was advised that the fee for consideration of the petition under the unintentional standard of 37 CFR 1.137(b) was required on filing of the petition. That is, absent payment of the petition fee, the petition would not be considered on the merits.

On renewed petition, petitioner has submitted the petition fee; the required reply; and the required statement of unintentional delay. The petition can now be considered on the merits. All requirements of 37 CFR 1.137(b) have now been met.

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[1] Pursuant to the telephone request made by the undersigned on May 24, 2011, petitioner resubmitted the combined petition and response to Office action filed May 9, 2011 as separate papers. The papers are now accepted as in compliance with § 1.4(c).

Technology Center AU 3727 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the response submitted on petition filed May 24, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/796,028	04/25/2007	Aladar A. Szalay	33316.04802.US14/4802D	2621

13565 7590 08/02/2011
McKenna Long & Aldridge LLP
4435 Eastgate Mall
Suite 400
San Diego, CA 92121

EXAMINER
BLUMEL, BENJAMIN P

ART UNIT	PAPER NUMBER
1648	

MAIL DATE	DELIVERY MODE
08/02/2011	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

AUG 0 2 2011

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McKenna Long & Aldridge LLP
4435 Eastgate Mall
Suite 400
San Diego CA 92121

In re Application of:
Szalay et al.
Serial No.: 11/796,028
Filed: April 25, 2007
Attorney Docket No:
33316.04802.US14/4802D

: PETITION DECISION

This is in response to the petition filed on July 20, 2011 under 3 7 CFR 1.181 to correct the misclassification of submitted Information Disclosure Statements. Specifically, applicants request correction of the classification in PAIR of the Information Disclosure Statements submitted on December 28, 2007; December 30, 2008; and February 16, 2010 in connection with the above-referenced application and consideration by the Examiner of the documents and information contained therein.

Applicants argue the "Information Disclosure Statements were submitted in connection with the above-captioned application on December 28, 2007; December 30, 2008; and February 16, 2010. Each Information Disclosure Statement was prepared in accordance with 37 C.F.R 1.97 and 1.98. As required under 37 C.F.R 1.98, each Information Disclosure Statement contained 1) a list of all patents, publications, applications, or other information submitted for consideration by the Office, including a column that provides a space next to each document to be considered, for the examiner's initials and a heading that clearly indicates that the list is an Information Disclosure Statement; and 2) legible copies of all items listed. The items either were in English or a translation was provided. A copy of the misclassified Information Disclosure Statements filed on December 28, 2007; December 30, 2008; and February 16, 2010 is attached.

The submitted Information Disclosure Statement included a tabular Form PTO-1449, which was classified as an "IDS," and a written disclosure of information. In each instance, the written disclosure of information was misclassified in PAIR as a "Transmittal Letter" (December 28, 2007, "Transmittal Letter" of 7 pages; December 30, 2008, "Transmittal Letter" of 5 pages; and February 16, 2010, "Transmittal Letter" of 3 pages). However, page 3 of the written disclosure of December 30, 2008, was correctly classified as an "IDS" (December 30, 2008, "IDS" of 1 page). In this same instance, the tabular Form PTO-1449, was misclassified in PAIR as "Non Patent Literature," (December 30, 2008, "Non Patent Literature" of 18 pages).

Consequently, the information contained therein may not be considered or reviewed by the Examiner."

Applicants' argument has been accorded careful consideration and is persuasive. PAIR will be corrected to reflect the misclassification of the submitted Information Disclosure Statements of December 28, 2007; December 30, 2008; and February 16, 2010.

DECISION

The petition is **GRANTED.**

The examiner is instructed to consider the IDS of December 28, 2007; December 30, 2008; and February 16, 2010 which was misclassified in PAIR as a "Transmittal Letter" (December 28, 2007, "Transmittal Letter" of 7 pages; December 30, 2008, "Transmittal Letter" of 5 pages; and February 16, 2010, "Transmittal Letter" of 3 pages). However, page 3 of the written disclosure of December 30, 2008, was correctly classified as an "IDS" (December 30, 2008, "IDS" of 1 page). In this same instance, the tabular Form PTO-1449, was misclassified in PAIR as "Non Patent Literature," (December 30, 2008, "Non Patent Literature" of 18 pages).

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

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

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MAILED
AUG 12 2011
OFFICE OF PETITIONS

Paper No.

McKenna Long & Aldridge LLP
4435 Eastgate Mall
Suite 400
San Diego CA 92121

In re Application of	:	
Szalay et al.	:	
Application No. 11/796,028	:	DECISION ON PETITION
Filed: April 25, 2007	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.10(C)
33316.04802.US14/4802D	:	
Title: MICROORGANISMS FOR THERAPY	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.10(c), filed July 29, 2011, requesting the according of a filing date of July 30, 2009 to a preveniently submitted Information Data Sheet (IDS) and a filing date of February 11, 2010 to a preveniently submitted Request for Continued Examination (RCE).

An IDS was received in the Office on July 31, 2009. A review of the electronic file shows that the Office of Initial Patent Examination (OIPE) placed a date stamp of "JUL 31 2009" on this submission.

With this petition, Petitioner has included a copy of Express Mail label number EM315454505US.[1]

Petitioner has alleged that the IDS was deposited on July 30, 2009, and the Patent Office has incorrectly assigned a filing date of July 31, 2009 to this paper. Petitioner has included a copy of the Express Mail label, and it is noted that both the "date in" field and the USPS date-stamp which appear thereon

1 The IDS transmittal letter has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

indicate that this mailing was accepted by the USPS on July 30, 2009.

Although the IDS received a filing date of July 31, 2009, the evidence is convincing that the IDS was filed on July 30, 2009, and the Patent Office assigned the incorrect date to this submission. Therefore, the IDS was entitled to a filing date of July 30, 2009, pursuant to 37 C.F.R. § 1.10(c).

Similarly, a RCE was received in the Office on February 16, 2010. A review of the electronic file shows that the Office of Patent Application Processing (OPAP) placed a date stamp of "FEB 16 2010" on this submission.

With this petition, Petitioner has included a copy of Express Mail label number EM315450653US.[2]

Petitioner has alleged that the RCE was deposited on February 11, 2010, and the Patent Office has incorrectly assigned a filing date of February 16, 2010 to this paper. Petitioner has included a copy of the Express Mail label, and it is noted that both the "date in" field and the USPS date-stamp which appears thereon indicate that this mailing was accepted by the USPS on February 11, 2010.

Although the RCE received a filing date of February 16, 2010, the evidence is convincing that the RCE was filed on February 11, 2010, and the Patent Office assigned the incorrect date to this submission. Therefore, the RCE was entitled to a filing date of February 11, 2010, pursuant to 37 C.F.R. § 1.10(c).

Accordingly, the petition is **GRANTED**.

Office records will reflect that the IDS that was received in the Office on July 31, 2009 and the RCE that was received in the Office on February 16, 2010 were filed on July 30, 2009 and February 11, 2010, respectively, pursuant to 37 C.F.R. § 1.10(c).

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

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2 The RCE has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

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/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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).

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McKenna Long & Aldridge LLP
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San Diego CA 92121

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APR 04 2012
OFFICE OF PETITIONS

In re Application of	:	
Szalay et al.	:	
Application No. 11/796,028	:	DECISION ON PETITION
Filed: April 25, 2007	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.10(C)
33316.04802.US14/4802D	:	
Title: MICROORGANISMS FOR THERAPY	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.10(c), filed February 2, 2012, requesting the according of a filing date of January 19, 2012 to a preveniently submitted Supplemental Information Data Sheet (IDS).

A Supplemental IDS was received in the Office on January 20, 2012. A review of the electronic file shows that the Office of Patent Application Processing (OPAP) placed a date stamp of "JAN 20 2012" on this submission.

With this petition, Petitioner has included a copy of Express Mail label number EM608914473US.[1]

Petitioner has alleged that the Supplemental IDS was deposited on January 19, 2012, and the Patent Office has incorrectly assigned a filing date of January 20, 2012 to this paper. Petitioner has included a copy of the Express Mail label, and it is noted the "date in" field which appears thereon indicates this mailing was accepted by the USPS on January 19, 2012.

Although the Supplemental IDS received a filing date of January 20, 2012, the evidence is convincing that the Supplemental IDS

1 The IDS transmittal letter has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

was filed on January 19, 2012, and the Patent Office assigned the incorrect date to this submission. Therefore, the Supplemental IDS was entitled to a filing date of January 19, 2012, pursuant to 37 C.F.R. § 1.10(c).

Accordingly, the petition is **GRANTED**.

Office records will reflect that the Supplemental IDS that was received in the Office on January 20, 2012 was filed on January 19, 2012, pursuant to 37 C.F.R. § 1.10(c).

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[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

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

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STMICROELECTRONICS, INC.
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750 CANYON DRIVE, SUITE 300
COPPELL TX 75019

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Kurniawati et al.	:	
Application No. 11/796,036	:	ON PETITION
Filed: April 26, 2007	:	
Attorney Docket No. 05-SIN-014	:	

This is in response to the PETITION UNDER 37 C.F.R. § 1.182 filed December 14, 2010, requesting (after payment of the issue fee) that the citizenship of inventor Kurniawati be corrected in the records of the Office. The petition includes the statement of inventor Kurniawati attesting to the error in entry of her citizenship and a supplemental declaration signed by her.

The request is **DISMISSED**.

As stated in MPEP 603.01,

> Since the decision in *Cutter Co. v. Metropolitan Electric Mfg. Co.*, 275 F. 158 (2d Cir. 1921), many supplemental oaths and declarations covering the claims in the application have been filed after the applications were allowed. Such oaths and declarations may be filed as a matter of right and when received they will be placed in the file by the Office of Data Management, but their receipt will not be acknowledged to the party filing them. They should not be filed or considered as amendments under 37 CFR 1.312, since they make no change in the wording of the papers on file. See MPEP § 714.16.

Likewise, a supplemental declaration correcting citizenship may be filed as a matter of right, but will merely be placed in the file.

However, the declaration is not in compliance with 1.67. 37 CFR 1.67 requires that the declaration meet the requirements of 37 CFR 1.63. This supplemental declaration does not meet those requirements inasmuch as the declaration does not identify the entire inventive entity. Although only joint inventor Kurniawati's signature is required on the supplemental declaration as the deficiency relates only to her, the declaration must still identify both inventors. The supplemental declaration filed December 14, 2010 is 3 pages and does not include page 4 identifying joint inventor George.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAY 17 2011
OFFICE OF PETITIONS

In re Application of :
Kurniawati et al. :
Application No. 11/796,036 : ON PETITION
Filed: April 26, 2007 :
Attorney Docket No. 05-SIN-014 :

This is in response to the REQUEST FOR RECONSIDERATION OF DECISION ON PETITION filed April 29, 2011.

By decision mailed March 29, 2011, the initial petition under 37 CFR 1.182, requesting (after payment of the issue fee) that the citizenship of inventor Kurniawati be corrected in the records of the Office was dismissed.

The renewed request is **GRANTED to the extent indicated herein**.

As petitioner was previously advised, MPEP 603.01 states,

> Since the decision in *Cutter Co. v. Metropolitan Electric Mfg. Co.*, 275 F. 158 (2d Cir. 1921), many supplemental oaths and declarations covering the claims in the application have been filed after the applications were allowed. Such oaths and declarations may be filed as a matter of right and when received they will be placed in the file by the Office of Data Management, but their receipt will not be acknowledged to the party filing them. They should not be filed or considered as amendments under 37 CFR 1.312, since they make no change in the wording of the papers on file. See MPEP § 714.16.

A supplemental declaration correcting citizenship may be filed as a matter of right, but will merely be placed in the file.

The initial petition included the statement of inventor Kurniawati attesting to the error in entry of her citizenship and a supplemental declaration signed by her. However, the declaration was determined not to be in compliance with 1.67 as the declaration did not identify the entire inventive entity.

On instant renewed petition, petitioner has supplied for placement in the file a supplemental declaration signed by inventor Kurniawati and in compliance with 37 CFR 1.67.

Any further remedy, such as correction of the inventor's citizenship on the issued patent, is by way of a request for Certificate of Correction. See 35 U.S.C. 255.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JAN 07 2011

OFFICE OF PETITIONS

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Tessy Kanayinkal et al.	:	
Application No. 11/796,045	:	NOTICE
Filed: April 26, 2007	:	
Attorney Docket No. **37272-524001US**	:	

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.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.**
THE CHRYSLER CENTER
666 3RD AVE., AVE. 24TH FLOOR
NEW YORK NY 10017

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Michael M. Gerardi
30801 Calaise Court
Westlake Village CA 91362

MAILED
FEB 07 2012
OFFICE OF PETITIONS

In re Application of :
Piccionelli et al. :
Application No. 11/796,052 : ON PETITION
Filed: March 26, 2007 :
Attorney Docket No. 39003.810US02 :
For: REMOTE PERSONALIZATION METHOD

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2012, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action, mailed June 7, 2011, which set an extendable three month period for reply. No extension of time being obtained under 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on September 8, 2011. A Notice of Abandonment was mailed on December 14, 2011.

Applicants have submitted a RCE and required $465.00 fee and amendment in reply to the June 7, 2011 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 7, 2011 final Office action, and the $930.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2165 for consideration of the RCE and amendment filed on January 6, 2012.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

MAILED
JUN 28 2011
OFFICE OF PETITIONS

Robert C. Curfiss
Law Office of Robert Curfiss
19826 Sundance Drive
Humble TX 77346-1402

In re Application of	:	
James M. HUME	:	ON PETITION
Application No. 11/796,066	:	
Filed: April 26, 2007	:	
Atty. Docket No.: Hume 066	:	

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

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed May 28, 2010, which set a shortened statutory period for reply of three (3) months. No reply was received, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on August 29, 2010. A Notice of Abandonment was mailed January 18, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the non-final Office action mailed May 28, 2010, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the non-final Office action is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on June 2, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 3781 for further action on the filed Response.

Anthony Knight
Director
Office of Petitions

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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Kurt N. Kimber	:	
Application No. 11/796,097	:	DECISION ON PETITION
Filed: April 26, 2007	:	
Attorney Docket No. **P440.12-0018**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 14, 2010. Accordingly, the date of abandonment of this application is August 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 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 JoAnne Burke at (571) 272-4584.

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 27 2011

OFFICE OF PETITIONS

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19196-2399

In re Application of	:	
JOHN, et al	:	
Application No. 11/796,100	:	DECISION ON PETITION
Filed: April 26, 2007	:	
Docket No. A01824	:	

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

The petition is **GRANTED**.

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

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 June 27, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 04-1512.

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

All other inquiries should be directed to the Technology Center at (571) 272-1700.

This application is being referred to Technology Center AU 1771 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : **7636731**
Ser. No. : **11/796102**
Inventor(s) : **CRUANES, THIERRY**
Issued : **12/22/2009**
Title : **APPROXIMATING A DATABASE STATISTIC**
Docket No. : **50277-3233**

Re: Request for Certificate of Correction

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

In regards to the alleged error(s) in the Specification, Column 4, line 64, the requested changes aren't valid. The word "fill" isn't in Column 4, line 64 of the Specification.

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

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

Oracle Corporation
Legal (M/S 5op7)
500 Oracle Parkway
Redwood Shores, CA 94065

OL

From: TA, THUY
Building: RND Room: 18C

To: HARMON, CHRISTOPHER
Building: RND Room: 89

Allowance Returned on: 03-Aug-2011

Correction Due on: **08-Aug-2011**

Application: * ACRE*
ACRE

* 11796124*
11796124

Last modified user: tta1

Issue Classification	Status
Applicant name is present and correct.	Ok
International Classification is completed.	Ok
Issue Classification is completed.	Ok
Issue Classification is signed by a Primary Examiner or SPE. (If a Junior Examiner is assigned to the case, the Junior Examiner signature should also be present.)	Ok
Print Claim box is completed.	Ok
The OG Print Fig box identifies a specific Figure, contains the word "none", or has a line drawn through it.	Ok
Search and Interference	**Status**
Interference box is completed.	Ok
Search box is completed.	Ok
PTOL-37	**Status**
PTOL-37 is completed.	Ok
Claims	**Status**
All claims are numbered, renumbered, or cancelled.	Ok
Number of Claims on the Issue Information Sheet corresponds to number of Claims allowed.	Ok

One sheet of completed Claims is present.	Ok
There are no duplicate or missing Claim numbers.	Ok
Specification	**Status**
Brief Description of Drawings includes a description of each Figure, and only those Figures.	Deficient
Continuing Data is mentioned in the first paragraph of the Specification. Continuing Data may be an insert from an Amendment to the Specification or may be present in the ADS.	Ok
If biological sequences are present in the application, the CRFE is present.	Ok
There are no missing or duplicate pages.	Ok
There is no illegible text as a result of scanning.	Ok
Abstract	**Status**
Abstract consists of no more than 25 lines.	Ok
Abstract is a single paragraph.	Ok
Abstract is on a separate page.	Ok
If no Abstract is present, the document is a 371 application.	Ok
Amendments	**Status**
After Final Amendment with Examiner initials and notation: "OK to Enter" or "Do not Enter". (Initials not required for Request for Reconsideration.)	Ok
Examiners Amendment fees (such as Extension of Time fee or Additional Claim fee) are charged.	Ok
Examiners Amendments are signed by Primary Examiner or SPE and entered in PALM (by checking the appropriate box on the Notice of Allowability)	Ok
Oath/Declaration	**Status**
A Declaration (with the standard declaration statement) or a notartized Oath is present.	Ok
Certified copy of the Foreign Priority document is present.	Ok
Examiner has checked and initialed the Foreign Data boxes on the Bib Data Sheet.	Ok
Examiner has indicated acknowledgement of Foreign Priority on at least one Office Action.	Ok
Foreign Priority claimed is not more than 1 year (6 months for Design apps) from the effective filing date, if not claiming benefit of a PCT application.	Ok
Foreign Priority on the Bib Data Sheet agrees with the Oath/ Declaration or the ADS.	Ok
Oath or Declaration (whichever is present) is signed by all applicants.	Ok

Residence, citizenship, and Post Office address are included for all applicants.	Ok
The following phrases are present: ...'the original and first inventors' ...'reviewed and understand' ...'acknowledge the duty to'.	Ok
PCT Data	**Status**
For applications filed under 35 USC 371, PCT Form 903 is present.	Ok
USPTO Forms 892 and 1449	**Status**
Application number is present and correct on each form.	Ok
Examiner has initialed or lined through each entry on all USPTO Forms 1449 or SB/08.	Ok
Examiner has placed his/her name in the signature block and entered the date at the bottom of USPTO Forms 1449 or SB08.	Ok
Foreign Patent entries include publication number, country, and date (with month and year).	Ok
Non-Patent Literature (NPL) entries include a date (with at least the year).	Ok
US Patent entries include patent number, first-named inventor, and date (with month and year).	Ok
Title (Design applications only)	**Status**
Title of the application matches the Title in the Claims.	Ok

Text description for this application:

fig. 13C is missing

Corrected via Examiners Amendment
-ch

UNITED STATES 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

MAR 18 2011

OFFICE OF PETITIONS

In re Application of :
Yet-Ming Chiang et al :
Application No. 11/796,138 : ON PETITION
Filed: April 26, 2007 :
Attorney Docket No. ELECTROCHEMICAL METHODS, DEVICES, AND STRUCTURES

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

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2837 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

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

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Hangauer	:	DECISION ON APPLICATION
Application No. 11/796,200	:	FOR PATENT TERM ADJUSTMENT
Filed: April 26, 2007	:	
Attorney Docket No. 28856-503 CON	:	

This is in response to the "Application for Adjustment of Patent Term under 37 C.F.R. § 1.705(b)" filed March 1, 2011. Applicant requests the initial determination of patent term adjustment be corrected from one hundred and three (103) days to one hundred twenty-nine (129) days.

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

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on December 2, 2011, advising Applicant of a patent term adjustment to date of 103 days. In response, Applicant timely filed this application for patent term adjustment with payment of the issue fee on March 1, 2011.

Applicant asserts the Office's entry of a reduction in patent term adjustment as a result of the submission of an information disclosure statement ("IDS") on August 19, 2009, was improper because the IDS included a statement under 37 C.F.R. § 1.705(d).

37 C.F.R. § 1.704(d) states, with emphasis added,

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The transmittal letter filed with the August 19, 2009 IDS states, "The item contained in the Information Disclosure Statement was first cited in a communication from the U.S. Patent Office in a related application."

Since the August 19, 2009 IDS included a statement that the item contained in the IDS was first cited in a communication from the United States Patent and Trademark Office, the IDS clearly did not include a statement asserting the item of information was first cited in a communication from a foreign patent office.

The instant petition states, "Applicant hereby reiterates that each item of information contained in the IDS was first cited in any (sic) communication from a foreign patent office in a counterpart application." The statement in the petition appears to be inconsistent with the statement filed with the IDS on August 19, 2009. In addition, there is no provision in the rules for the Office to accept a statement under 37 C.F.R. § 1.704(d) which did not accompany (*i.e.*, was not filed contemporaneously with) the IDS.

In view of the prior discussion, the record fails to establish the August 19, 2009 IDS included a statement in compliance under 37 C.F.R. § 1.704(d).

The patent term adjustment as of the date of the mailing of the Notice of Allowance remains 103 days.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Applicant is reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicant 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 concerning the instant decision may be directed to the undersigned 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

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

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Kim, Daniel	:	
Application No. 11/796,373	:	ON PETITION
Filed: April 27, 2007	:	
Attorney Docket No. 13290-18USA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 2011, to revive the above-identified application.

The petition is **GRANTED**.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1.175.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

This matter is being referred to Technology Center AU 1745 for further examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120404

DATE : April 12, 2012

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 11/796,404

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:

/VANESSA L. FORD/
Supervisory Patent Examiner,Art Unit 1646

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID PETER ALAN , ESQ.
81 SECOND ST.
SOUTH ORANGE NJ 07079

MAILED
JUL 21 2011
OFFICE OF PETITIONS

In re Application of :
Robert C. Weisgerber :
Application No. 11/796,411 : DECISION ON PETITION
Filed: April 28, 2007 :
Title: Compact Acquisition Format For :
Dimensionalized Digital Cinema Projection At
Forty-Eight Images Per Second

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 27, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 30, 2010. A Notice of Abandonment was mailed 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 an Amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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. Currently, no change of address has been filed in the above-identified application. Additionally, 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.

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

This application is being referred to Technology Center AU 2878 for appropriate action by the Examiner in the normal course of business on the reply received.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: David Peter Alan
50 South Ridgewood Road
South Orange, N.J. 07079

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.
11/796,418	04/27/2007	Pratul Kumar Agarwal	23757 (1645)	3824

7590 06/09/2011
Scully Scott Murphy & Presser PC
400 Garden City Plaza, Suite 300
Garden City, NY 11530

EXAMINER
BORIN, MICHAEL L

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
06/09/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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June 8, 2011

Scully Scott Murphy & Presser PC
400 Garden City Plaza, Suite 300
Garden City NY 11530

Re Application of
AGARWAL, PRATUL KUMAR
Application: **11/796418**
Filed: **04/27/2007**
Attorney Docket No: **23757 (1645)**

: DECISION ON PETITION
: ACCEPTANCE OF COLOR
: DRAWINGS

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) April 27, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 14, 2010

TO SPE OF : ART UNIT 3673
SUBJECT : Request for Certificate of Correction for Appl. No /11/0796440 patent 7391198

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:

/THOMAS A BEACH/ 3674
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/20/2011

TO SPE OF : ART UNIT 1724 Keith Hendricks (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/796482 Patent No.: 7922888

CofC mailroom date: 6/7/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

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

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

Comments: _____

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER
SPE

1724
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 23 2012

OFFICE OF PETITIONS

Kenneth Altshuler
132 Miller Drive
Dacono CO 80514

In re Application of
Altshuler, et al.
Application No. 11/796,501
Filed: April 27, 2007
Attorney Docket No. **OSI001**

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed May 20, 2011, which set a three (3) month shortened statutory period for reply. The application became abandoned on August 21, 2011. A Notice of Abandonment was mailed on December 30, 2011.

The Notice of Appeal, filed February 27, 2012, is noted.

The Pre-Appeal Brief Request for Review, filed February 27, 2012, is also noted.

The application file is being forwarded to Technology Center 3600, GAU 3632for 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
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ELLIOTT N. KRAMSKY, ESQ.
SUITE 400
5850 CANOGA AVENUE
WOODLAND HILLS CA 91367

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Zagorsky, Eran	:	DECISION ON PETITION
Application No. 11/796,513	:	TO WITHDRAW
Filed: April 27, 2007	:	FROM RECORD
Attorney Docket No. 330-108	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Elliott N. Kramsky on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, Eran Zagorsky, at the address indicated below.

There is an outstanding Office action, mailed August 26, 2010, which requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ERAN ZAGORSKY
BENRON EQUIPMENT AND SUPPLY, INC.
15823 STAGG STREET
VAN NUYS CA 91406

UNITED STATES 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 08 2010

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

In re Application of	:	
Christoph Gaissmaier et al	:	
Application No. 11/796,526	:	DECISION ON PETITION
Filed: April 26, 2007	:	TO WITHDRAW
Attorney Docket No. 677672000101	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2010.

The request is **APPROVED**.

The request was signed by Peng Chen on behalf of the practitioners of record associated with Customer Number 25225.

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

All future correspondence will be directed to assignee Tetec – Tissue Engineering Technologies Aktiengesellschaft at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Tetec – Tissue Engineering Technologies Aktiengesellschaft
Aspenhaustrasse 25
Reutlingen, Germany 72770

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
11/796,526	04/26/2007	Christoph Gaissmaier	677672000101

CONFIRMATION NO. 3270

POA ACCEPTANCE LETTER

TETEC - TISSUE ENGINEERING
TECHNOLOGIES AKTIENGESELLSCHAFT
ASPENHAUSTRASSE 25
REUTLINGEN, 72770
GERMANY

OC000000043847549

Date Mailed: 10/08/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/09/2010.

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

/idingle/

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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/796,526	04/26/2007	Christoph Gaissmaier	677672000101

CONFIRMATION NO. 3270

POWER OF ATTORNEY NOTICE

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

OC000000043847548

Date Mailed: 10/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/09/2010.

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

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 19 2011
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Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Patent No. 7,536,013	:	
Issue Date: May 19, 2009	:	
Application No. 11/796,534	:	DECISION ON REQUEST FOR REFUND
Filed: April 24, 2007	:	
Attorney Docket No. I-2-0332.3US	:	

This is a decision on the Request For Refund filed October 14, 2011.

The request is **DISMISSED**.

The request for refund is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request for refund is signed Beth Patterson. Note 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
MAR 16 2012
OFFICE OF PETITIONS

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Patent No. 7,536,013	:	
Issue Date : May 19, 2009	:	
Application No. 11/796,534	:	RESPONSE TO PETITION
Filed: April 24, 2007	:	
Attorney Docket No. I-2-0332.3US	:	

This is a response to the petitions, filed September 23, 2011, which are being treated as petitions under 37 CFR 1.59(b) and 1.182 to expunge a document titled Rebuttal Expert Report of Dr. Apostolos K. Kakaes Regarding Non-Infringement of U.S. Patent No. 6,973,579 (Rebuttal Report) submitted in an IDS filed March 2, 2009. The Rebuttal Report is alleged to be under the protective order of the U.S. International Trade Commission (ITC). This is also a decision on the petition under 37 CFR 1.183, filed September 23, 2011, for entry of the concurrently filed petition to expunge.

The petition under 37 CFR 1.59(b) is **dismissed**. The petition is deficient because the petition was filed after issuance of the above identified application. Petitions to expunge filed under 37 CFR 1.59 cannot be granted in a patented file.

The petition under 37 CFR 1.182 is **granted** to the extent that the Rebuttal Report has been provisionally sealed from public access in order to effect the direction of the ITC, but is **dismissed** as to the permanent removal of the Rebuttal Report from the record of the above-identified patent.

The Petition under 37 CFR 1.183 is **dismissed**.

As to the petitions under 37 CFR 1.59(b) and 1.182:

The petition was filed by a third party. Generally, neither the patent statute nor its implementing regulation confers a right upon a third party to intervene in the above-identified patent. Information submitted to the Office by a third party regarding an application must be consistent with 35 USC § 122(c); 37 CFR §§ 1.99, 1.291 and 1.292; and/or the standards discussed in MPEP § 1901, as discussed in the USPTO *Official Gazette* Notice published 22 April 2003. The actions requested by the third party here are not specifically authorized by statute or regulation

and, therefore, would not normally cause the Office to act as requested at the behest of a party without standing.

However, the petition included a protective order of the ITC. Since the Office may act at its own initiative as appropriate, the Rebuttal Report has been provisionally expunged as desired by the ITC. The responsibility for ensuring that the Rebuttal Report is permanently expunged from the above-identified patent falls to petitioner.

While 37 CFR 1.56 requires applicants to disclose "material" information, the Office attempts to minimize the potential conflict between full disclosure of "material" information as required by 37 CFR 1.56 and protection of trade secret, proprietary, and protective order material to the extent possible. Procedures are set forth in the Manual of Patent Examining Procedure (MPEP), sections 724.02-724.05, that applicants should follow such that the Office may ensure as complete a patent file wrapper as possible while preventing unnecessary public disclosure of trade secrets, proprietary material, and protective order material.

The petition requests expungement of the Rebuttal Report which was provided in an IDS by applicant as an un-redacted 66 page document. Petitioner further points out that this document includes in particular the technology comprising Nokia's HSPDA implementation. However, a review of this document as provided in the IDS shows that a large portion of the Rebuttal Report is redacted and in particular pages 16-23 which are under a heading "Nokia Implementation" are completely redacted. Thus, there is no clear identification as to the material to be expunged since the petition misidentifies the document to be expunged. Further, petitioner must identify how the ITC protective order applies to the Rebuttal Report.

<u>In regard to the petition under 37 CFR 1.183:</u>

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. This petition requires a fee set forth in 37 CFR 1.17(f) which is currently $400, this fee has been charged to petitioner's deposit account as authorized. This petition requested entry of the concurrently filed petitions under 37 CFR 1.59(b) and 1.182. These two petitions were entered and thus no extraordinary situation for their entry exists. Therefore this petition is dismissed.

Petitioner is given one month or thirty (30) days, whichever is later, to file a petition under 37 CFR 1.182 to permanently expunge the Rebuttal Report in accordance with MPEP 724.02. This period for reply is not extendable under 37 CFR 1.136(a).

Failure to file the required reply within the period set above will be considered a failure of petitioner to engage in reasonable efforts to conclude processing of permanent removal of the Rebuttal Report.

This decision is being mailed to the address of record for the above-identified application. In order to ensure that the requesting party is notified of the decision, the decision is also being forwarded to the address on the petition. However, future correspondences will be forwarded to the address of record until the address is properly changed.

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

David Bucel
Petitions Examiner
Office of Petitions

cc: Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of
Alexander J. Cohen, et al.
Application No. 11/796,543
Filed: April 27, 2007
Attorney Docket No. QQ1-0097US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

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

Petitioner should note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, since the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office, the request cannot be granted at the present time.

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

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).

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

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

cc: MARGARET ANDERSON
106 E. 6TH STREET
SUITE 900
AUSTIN, TX 78701

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

MAILED
MAR 21 2011
OFFICE OF PETITIONS

In re Application of
Alexander J. Cohen, et al.
Application No. 11/796,570
Filed: April 26, 2007
Attorney Docket No. QQ1-0101US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

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

Petitioner should note that the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, since the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office, the request cannot be granted at the present time.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

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

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

cc: MARGARET ANDERSON
106 E. 6TH STREET
SUITE 900
AUSTIN, TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/796,622	04/27/2007	Scott A. Sarkinen	M963.12-0003 / P-0024209.	2063

164 7590 03/04/2011
KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

EXAMINER
ZOLLINGER, NATHAN C

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
03/04/2011	PAPER

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

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

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United States Patent and Trademark Office
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www.uspto.gov

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

In re Application of:
SARKINEN, SCOTT A. et al
Serial No. 11/796,622
Filed: April 27, 2007
Docket: M963.12-0003 / P-0024209.
Title: RESIDUAL ENERGY RECOVERY IN A DRUG DELIVERY DEVICE

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed on February 22, 2011 under 37 CFR 1.181 requesting withdrawal of the holding of abandonment. The Notice of Abandonment was mailed on January 27, 2011.

The petition is **Granted.**

In finding petitioner's points of argument persuasive and after consulting with the examiner, the replacement drawing sheet filed on September 20, 2010 is acceptable. The requested drawing change as stated in the Notice of Allowance was in error and should not have been required. Since the drawing correction was already made on September 20, 2010, the drawing correction in the Notice of Allowance is hereby withdrawn.
The Notice of Abandonment is now withdrawn.

The application is being forwarded to the Patent Publication Branch for issuance of a patent. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Angela D. Sykes

Angela D. Sykes, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/6/2011

TO SPE OF : ART UNIT 3626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/796627 Patent No.: 7983934 B1

CofC mailroom date: 8/24/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

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

Comments: _____

/Robert Morgan/
SPE

3626
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-5-10

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11796630 Patent No.: 7582408

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: _____

_____

_____

_____

_____

Gustavo A Kelly — **SPE**

1795 — **Art Unit**

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Lawrence Livermore National Security, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE CA 94551-0808

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Stavros G. Demos et al.	:	
Application No. 11/796,689	:	DECISION ON PETITION
Filed: April 27, 2007	:	
Attorney Docket No. IL-11074B	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 14, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 15, 2006. A Notice of Abandonment was mailed on June 22, 2007.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on April 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3737 for appropriate action by the Examiner in the normal course of business on the reply received April 11, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

BiPar Sciences Inc. c/o Morrison Foerster
755 Page Mill Road
Palo Alto CA 94304

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Application of :
Noronha et al. :
Application No. 11/796,717 : LETTER REGARDING
Filed: April 26, 2007 : PATENT TERM ADJUSTMENT
Docket No. 686472000720 :
Title: BI-ARYL META-PYRIMIDINE :
INHIBITORS OF KINASES :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed August 19, 2010. Applicant requests that the determination of patent term adjustment be decreased increased by five (5) days to forty-six (46) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, Applicant contends that two periods of applicant delay were incorrectly omitted.

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

---

[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 record supports a conclusion that any patent issuing from this patent is subject to a terminal disclaimer.

Applicant disputes the failure to accord a five-day reduction associated with the filing of an amendment on July 26, 2010.

37 C.F.R. § 1.704(c)(10) indicates that the following constitutes applicant delay:

> 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 May 19, 2010. An amendment to the specification was filed on July 26, 2010, and the Office mailed a "Response to Rule 312 Communication" four days later on July 30, 2010. The Office agrees this warrants a five-day reduction pursuant to 37 C.F.R. § 1.704(c)(10).

Applicant further notes that a second period of reduction is warranted, due to the filing of a Rule 1.312 Amendment on August 18, 2010. Seven days later (subsequent to the filing of this petition), on August 25, 2010, the Office mailed a "Response to Rule 312 Communication." This warrants an eight-day reduction pursuant to 37 C.F.R. § 1.704(c)(10).

The Office thanks Applicant for her good faith and candor in bringing these two periods of reduction to the attention of the Office.

A reduction of 5 days and a reduction of 8 days have been entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is thirty-eight (38) days (120 days of Office delay minus 82 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.

Applicant is 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 regarding this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of updated PAIR screen

Patent Term Adjustments

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

Application Number*: 11796717 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11796717

Application Filing Date	04/26/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	120
A Delays	120	PTO Manual Adjustment	-13
B Delays	0	Applicant Delay (APPL)	69
C Delays	0	Total PTA (days)	38

* - 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	09/19/2010		PO28	Adjustment of PTA Calculation by PTO		13	0
64	05/14/2010		IREV	Issue Revision Completed			0
63	05/14/2010		DVER	Document Verification			0
61	05/14/2010		N/=.	Notice of Allowance Data Verification Completed			0
60	05/10/2010		CNTA	Notice of Allowability			0
59	05/06/2010		N/AP	Notice of Appeal Filed			0
58	04/15/2010		FWDX	Date Forwarded to Examiner			0
57	04/09/2010	02/06/2010	A.NE	Amendment after Final Rejection		62	48
56	04/09/2010		XT/G	Request for Extension of Time - Granted			0
55	03/19/2010		EML_NTR	Email Notification			0
54	03/19/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
53	03/15/2010		CTAV	Advisory Action (PTOL-303)			0
52	02/11/2010		FWDX	Date Forwarded to Examiner			0
51	02/08/2010		A.NE	Amendment after Final Rejection			0
50	11/06/2009		ELC_RVW	Electronic Review			0
49	11/06/2009		EML_NTF	Email Notification			0
48	11/06/2009	10/30/2009	MCTFR	Mail Final Rejection (PTOL - 326)	7		42
47	10/26/2009		CTFR	Final Rejection			0
43	08/14/2009		FWDX	Date Forwarded to Examiner			0
38	07/21/2009		PS74	Paralegal TD Accepted			0
46	06/30/2009		IDSC	Information Disclosure Statement considered			0
44	06/30/2009		C614	New or Additional Drawing Filed			0
42	06/30/2009	06/23/2009	A...	Response after Non-Final Action		7	34
41	06/30/2009		XT/G	Request for Extension of Time - Granted			0
40	06/30/2009		RCAP	Reference capture on IDS			0
39	06/30/2009		M844	Information Disclosure Statement (IDS) Filed			0
37	06/30/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
36	03/24/2009		ELC_RVW	Electronic Review			0
35	03/23/2009		EML_NTF	Email Notification			0
34	03/23/2009		MCTNF	Mail Non-Final Rejection			0
33	03/16/2009		CTNF	Non-Final Rejection			0
26	01/02/2009		FWDX	Date Forwarded to Examiner			0
45	12/17/2008	12/17/2008	M844	Information Disclosure Statement (IDS) Filed			25
29	12/17/2008		IDSC	Information Disclosure Statement considered			0
28	12/17/2008		M844	Information Disclosure Statement (IDS) Filed			0
27	12/17/2008		RCAP	Reference capture on IDS			0
25	12/17/2008		ELC.	Response to Election / Restriction Filed			0
24	12/17/2008		XT/G	Request for Extension of Time - Granted			0
23	12/17/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
22	10/17/2008		ELC_RVW	Electronic Review			0
21	10/17/2008		EML_NTF	Email Notification			0
20	10/17/2008	06/26/2008	MCTRS	Mail Restriction Requirement	113		-1
19	10/14/2008		CTRS	Requirement for Restriction / Election			0
18	11/08/2007		PG-ISSUE	PG-Pub Issue Notification			0
17	09/24/2007		C.AD	Correspondence Address Change			0
16	09/24/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
15	08/30/2007		DOCK	Case Docketed to Examiner in GAU			0
14	08/20/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	08/13/2007		OIPE	Application Dispatched from OIPE			0
12	08/02/2007		PGPC	Sent to Classification Contractor			0
11	08/02/2007		COMP	Application Is Now Complete			0
10	07/23/2007		ADDFLFEE	Additional Application Filing Fees			0
9	07/23/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	07/23/2007		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems			0
6	05/21/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	05/16/2007		L128	Cleared by L&R (LARS)			0
4	05/15/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	05/15/2007		CLSS	CASE CLASSIFIED BY OIPE			0
2	05/13/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	04/30/2007		IEXX	Initial Exam Team nn			0

Export to: Excel

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

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11796720
Filing Date	26-Apr-2007
First Named Inventor	Howard Gutowitz
Art Unit	2612
Examiner Name	TIMOTHY EDWARDS JR
Attorney Docket Number	EATO 3694000
Title	TOUCH-TYPABLE DEVICES BASED ON AMBIGUOUS CODES AND METHODS TO DESIGN SUCH DEVICES

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

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

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

Petition Fee

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

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

☐ Applicant(s) status remains as SMALL ENTITY.

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

Reason for withdrawal from issue

○ One or more claims are unpatentable

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

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

RCE request,submission, and fee.

☒ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on 2011.09.20

☐ 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	/Alan Cooper/
Name	Alan A.R. Cooper
Registration Number	51217

UNITED STATES 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 20,2011

In re Application of :

Howard Gutowitz

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11796720

Filed : 26-Apr-2007

Attorney Docket No : EATO 3694000

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed September 20,201,1to 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 2612 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/18/2011

TO SPE OF : ART UNIT 3711 Kim Eugene (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/796734 Patent No.: 7854671

CofC mailroom date: 1/13/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ SPE _____ Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,854,671

DATED: August 08, 2011

INVENTOR(S): Haresh Lalvani

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

In Line 10 of Claim 1 delete "concave" and insert ---convex--- after <panel mates with said > and before < edge of adjacent said>.

/J. B. B./
Examiner, Art Unit 3711

Receipt date: 02/18/2011 11796734 - GAU: 3711

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/18/2011

TO SPE OF : ART UNIT 3711 Kim Eugene (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/796734 Patent No.: 7854671

CofC mailroom date: 1/13/204

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-756-1571 _____

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: _____

Gene Kim Digitally signed by Gene Kim DN: cn=Gene Kim, c=US, o=PTO, ou=AU 3711, email=eugene.kim@uspto.gov Date: 2011.08.09 11:33:58 -04'00'

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

Conley Rose, P.C.
David A. Rose
P.O. Box 3267
Houston, TX 77253-3267

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of
Steven A. Carpenter, et. al.
Application No. 11/796,760
Filed: April 30, 2007
Attorney Docket No. PORT.P003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2010, to revive the above-identified application.

The application was held abandoned for failure to file a reply to the final Office action mailed on July 2, 2009. A Notice of Abandonment was mailed January 19, 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 a Request for Continued Examination (RCE) along with the $810 fee and the submission under 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

This application file is being referred to Technology Center Art Unit 3695 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Timir Chheda
Conley Rose, P.C.
600 Travis Street – Suite 7100
Houston, TX 77002

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.
11/796,817	04/30/2007	Ming C. Hao	200700705-1	5655

7590 02/24/2011
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
NGUYEN, CHAU T

ART UNIT	PAPER NUMBER
2176	

NOTIFICATION DATE	DELIVERY MODE
02/24/2011	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

February 22, 2011

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

In re Application of	:	
Ming C. Hao, et al	:	**DECISION ON PETITION**
Application No. 11796817	:	
Filed: 04/30/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **200700705-1**	:	***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) April 30, 2007.

The petition is **GRANTED**.

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

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

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

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

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **3-27-12**

TO SPE OF : ART UNIT **3717**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11796864** Patent No.: **8123586**

CofC mailroom date: 3-19-12

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-E
Palm Location 7580

Note: _

Omega Lewis

703-756-1575

Thank You For Your Assistance

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

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

Comments:

[signature] **SPE**

3717 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 14 2011

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE/MARVELL
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,689,805
Issued: March 30, 2010
Application No. 11/796,882
Filed: April 27, 2007
Attorney Docket No. 10519/244

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

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PTA", filed March 24, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 466 days to 508 days. Since the patent has now issued, the request is being treated under 37 CFR 1.705(d).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED.** The PTA at the time of the mailing of the notice of allowance is 508 days.

On December 14, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 535 days. Additionally, on March 30, 2010, the above-identified application matured into U.S. Patent No. 7,689,505 with a revised patent term adjustment of 466 days. Applicants argue that they are entitled to an additional 42 days but do not state a basis for their disclosure that the Patent Term Adjustment on the Notice of Allowance disagrees with their calculation.

Nonetheless, a review of the record reveals that the reduction of 42 days for Applicant Delay is incorrect.

On January 21, 2010 an amendment under 37 C.F.R. § 1.312 and an Information Disclosure Statement (IDS) were filed, after the mailing of the Notice of Allowance. A response was mailed on February 16, 2010.

Pursuant to 37 CFR 1.704(c)(10) a period of applicant delay in the amount of 27 days was accorded for the filing of the amendment under § 1.312 and a reduction in the amount 42 days for the filing of the IDS was accorded.

Specifically, 37 CFR 1.704(c) provides, in pertinent part, that:

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

Given the filing on January 21, 2010 of the amendment under under § 1.312 and the Information Disclosure Statement (IDS) after the mailing of the Notice of Allowance on December 14, 2009, a period of reduction pursuant to 37 CFR § 1.704(c)(10) should have been entered. However, as the periods overlap and as the response mailed February 16, 2010 acknowledges and is responsive to the filing of both the amendment

under § 1.312 and the IDS, the period of delay is 27 days, counting the number of days from January 21, 2010 to February 16, 2010. Accordingly, only the reduction of 27 days is warranted and the period of delay in the amount of 42 is being removed. As such, the patent term adjustment is 508 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 23-1925.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred eight (508)** 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 : 7,689,805 B2

DATED : March 30, 2010

INVENTOR(S) : Christopher S. Moore

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 (466) days

Delete the phrase "by 466 days" and insert – by 508 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

CONLEY ROSE, PC
DAVID A. ROSE
PO BOX 3267
HOUSTON, TX 77253-3267

MAILED

SEP 20 2010
OFFICE OF PETITIONS

In re Application of :
Steven A. Carpenter, et al. :
Application No. 11/796,884 : ON PETITION
Filed: April 30, 2007 :
Attorney Docket No. 1991-04302 :

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 5, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 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 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.

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

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) 272-1642. 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 3693 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

cc: TIM D. CHHEDA
CONLEY ROSE, PC
600 TRAVIS STREET
SUITE 7100
HOUSTON, TX 77002

UNITED STATES 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
PITTSBURGH PA 15219

MAILED
OCT 15 2010
OFFICE OF PETITIONS

In re Application:	:	
Landau et al.	:	
Application No. 11/796,886	:	ON PETITION
Filed: April 30, 2007	:	
Attorney Docket No. 133008.00101	:	

This is a notice regarding your request filed September 13, 2010 for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Stephen P. Cole
15th Floor, Oliver Street Tower
125 High Street
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FEB 03 2011
OFFICE OF PETITIONS

In re Application of	:	
Kaori Tanishima	:	
Application No. 11/796,896	:	DECISION GRANTING PETITION
Filed: April 30, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NNA-301-A	:	

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

The petition is **GRANTED**.

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

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

Telephone inquiries 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 3618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
VEITCH, et al	:	
Application No. 11/796,904	:	NOTICE
Filed: April 30, 2007	:	
Attorney Docket No. 200603511-1	:	

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

for Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON TX 77253-3267

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
Carpenter, et al. :
Application No. 11/796,977 :
Filed: 30 April, 2007 :
Attorney Docket No. 1991-04303 :

DECISION

This is a decision on the petition filed on 2 August, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] *In the event that such an inquiry has not been made, Petitioner* ***must*** *make such an inquiry.*

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the Office.*

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

As to the Allegations
of Unintentional Delay

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

[1] See 37 C.F.R. §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

BACKGROUND

The record reflects as follows:

Former Counsel failed to reply timely and properly to the final Office Action mailed on 29 September, 2009, with reply due absent extension of time on or before 29 December, 2009.

The application went abandoned by operation of law after midnight 29 December, 2009.

The Office mailed a Notice of Abandonment on 14 April, 2010.

On 2 August, 2010, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

As noted above, 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.[2] In the event that such an inquiry has not been made, Petitioner **must** make such an inquiry.

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner **must** notify the Office.

The record (including the petition filed on 2 August, 2010) does not necessitate a finding that the delay between midnight 29 December, 2009 (the date of abandonment), and 2 August, 2010 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Tim D. Chheda (Reg. No. 60,752) when accepting Petitioners' representation that the delay in filing the response was unintentional.[3]

---

[2] See 37 C.F.R. §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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).[5]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6])

As to Allegations of Unintentional Delay

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

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

CONCLUSION

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

---

[4] 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).

[5] 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.

[6] 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.

The instant application is released to Technology Center/AU 3693 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[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal 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

HARNESS, DICKEY & PIERCE PLC
PO BOX 8910
RESTON VA 20195

MAILED

AUG 15 2011

OFFICE OF PETITIONS

In re	:	
Min, et al.	:	
Application No. 11/797,003	:	DECISION ON PETITION
Filed: April 30, 2007	:	
Attorney Docket No. 15202-000002/US	:	

This is a decision on the "PETITION FOR CORRECTION OF ASSIGNEE NAME", filed July 20, 2011.

The petition is **DISMISSED**.

As set forth in MPEP 307:

If a request for issuance to an assignee pursuant to 37 CFR 3.81(b) is_submitted after the day on which the issue fee is paid, the request under 37 CFR 3.81(b) must include a request for a certificate of correction under 37 CFR 1.323 (accompanied by the fee set forth in 37 CFR 1.20(a)) and the processing fee set forth in 37 CFR 1.17(i). The request under 37 CFR 3.81(b) must state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent. The Office will issue a certificate of correction to reflect that the patent issued to the assignee provided the requirements of 37 CFR 3.81(b) and 37 CFR 1.323 are complied with.

Here, applicants have not submitted the $100 fee for the Certificate of Correction as set forth in 37 CFR 1.20(a) or the $130 processing fee set forth in 37 CFR 1.17(i).

As such, on renewed petition, applicants should submit the fees as set forth above, together with a request for a Certificate of Correction.

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
APR 28 2011
OFFICE OF PETITIONS

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Roman Rapp	:	
Application No. 11/797,117	:	DECISION ON PETITION
Filed: May 1, 2007	:	
Attorney Docket No.: 07781.0313-00	:	

This is a decision on the petition, filed March 10, 2011, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Abhay A. Watwe appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of August 5, 2010, which set a three (3) month shortened statutory period for reply. A reply was due on or before November 5, 2010. On March 3, 2011, a Notice of Abandonment was mailed. In response, on March 10, 2011, the present petition was filed.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on October 22, 2010 of, *inter alia,* an Amendment (18 pages). A copy of the previously submitted reply accompanies the petition.

It is noted that the postcard lacks any annotation of non-receipt of any item denoted thereon; but, the amendment acknowledged as having been received in the USPTO on October 22, 2010 is not of record in the application file and has not, to date, been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date

stamped thereon by the USPTO." Accordingly, it is concluded that the amendment was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The Notice of Abandonment mailed March 3, 2011 is hereby **vacated.**

The copy of the amendment supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on October 22, 2010.

This application is being referred to Technology Center AU 3623 for appropriate action in the normal course of business on the reply received with petition.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DILWORTH PAXSON LLP
1500 MARKET STREET
SUITE 3500 E
PHILADELPHIA, PA 19102

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of

Eric-Vincent Guichard
Application No. 11/797,218
Filed: May 1, 2007
Attorney Docket No. 08-1152

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 21, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the application has been abandoned or the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP) explains that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the application became abandoned on May 25, 2010.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

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

cc: ERIC-VINCENT GUICHARD
GRAVITAS CAPITAL ADVISORS, INC.
601 PENNSYLVANIA AVENUE, NW
SUITE 900 SOUTH BUILDING
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/797,287	05/02/2007	Naomiki Kobayashi	008312-0361115	7215

7590 10/08/2010
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2484	

MAIL DATE	DELIVERY MODE
10/08/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 10/12/2010 [illegible]
05/03/2007 YPOLITE1 00000037 033975 11797287
02 FC:1111 500.00 CR

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

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

MAILED

FEB 27 2012

OFFICE OF PETITIONS

In re Application of	:	
Hayim Lindenbaum et al.	:	
Application No. 11/797,294	:	DECISION ON PETITION
Filed: May 2, 2007	:	TO WITHDRAW
Attorney Docket No. **023372.0110N2US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 9, 2012.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

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

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

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).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

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

Telephone inquires 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/797,354	05/02/2007	Russell G. Miller	P71391US1	6325

7590 10/26/2010
LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER
AFREMOVA, VERA

ART UNIT	PAPER NUMBER
1657	

NOTIFICATION DATE	DELIVERY MODE
10/26/2010	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
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October 22, 2010

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

In re Application of	:	
Russell G. Miller, et al	:	**DECISION ON PETITION**
Application No. 11797354	:	
Filed: 05/02/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **P71391US1**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 2, 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.

/Kimberly Terrell/
Manager
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/797,448	05/03/2007	Hirotsugu Kato	008312-0361159	7683

7590 10/14/2010
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
LEMMA, SAMSON B

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
10/14/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

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

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of
Yao-Lu Tsai, et al.
Application No. 11/797,461
Filed: May 3, 2007
Attorney Docket No. 4989-0144PUS1

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 **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 Gerald M. Murphy on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 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 Yao-Lu Tsai at the address indicated below.

There are no pending Office actions at the present time.

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

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

cc: YAO-LU TSAI
2F., NO 40, ALLEY 119, LANE 30
YONGJI, SINYI DISTRICT
TAIPEI CITY 110 TAIWAN
R. O. C.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/797,461	05/03/2007	Yao-Lu Tsai	4989-0144PUS1

CONFIRMATION NO. 6762

POWER OF ATTORNEY NOTICE

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000046714390

Date Mailed: 03/22/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/11/2011.

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

/amwise/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111119

DATE : November 16, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 8,010,121

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:

/DWAYNE BOST/
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
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MAILED
APR 18 2011
OFFICE OF PETITIONS

LEONG C. LEI
PMB # 1008
1839 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

In re Application of	:	
CHENG	:	
Application No. 11/797,639	:	DECISION ON PETITION
Filed: May 4, 2007	:	
Docket No. CFPA7103-15972	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the 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.

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

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 the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2115 for appropriate action by the Examiner in the normal course of business.

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

cc: LEONG C. LEI
PMB #1008, 1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/31/2010

Applicant	: Simon Huang	: DECISION ON REQUEST FOR
Patent Number	: 7654481	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/797,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/07/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/797,689	05/07/2007	Toshihiro Imai	ISH-031	8890

32628 7590 02/22/2012
KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

EXAMINER
PICKARD, ALISON K

ART UNIT	PAPER NUMBER
3674	

MAIL DATE	DELIVERY MODE
02/22/2012	PAPER

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

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

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FEB 2 2 2012

KANESAKA BERNER AND PARTNERS, LLP
1700 Diagonal RD
Suite 310
Alexandria, VA 22314-2848

In re Application of Toshihiro Imai Application No. 11/797,689 Filed: May 07, 2007 Attorney Docket No.: ISH-031 For: METAL GASKET	DECISION ON PETITION REGARDING REQUEST TO WITHDRAW A PORTION OF THE RESTRICTION REQUIREMENT UNDER 37 CFR 1.181

This is in response to applicants' petition under 37 CFR 1.181 filed May 03, 2010 requesting that the restriction requirement withdrawing claims 2, 4-6, 11, and 12 be withdrawn by the Examiner.

The petition is **DISMISSED AS MOOT**.

A review of the file reveals that an Appeal Brief was file on May 14, 2010, which was after the petition in question. The Examiner agreed with the Appellant's argument that claims 2, 4-6, 11, and 12 should not have been withdrawn. Accordingly, a Non-Final Office Action was issued to properly address those claims.

The record further reveals that the application was forward to the Board of Patent Appeals and Interferences on May 31, 2011.

In view of the above, applicants' petition is moot and is hereby dismissed.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Shane Bomar at (571) 272-7026.

Dave Talbott, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

OPAP 14:23 SEP 07 2010 PATENT & TRADEMARK OFFICE

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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

MAILED
JUL 26 2010
OFFICE OF PETITIONS

In re Application of	:	
Jongwoon Yang	:	
Application No. 11/797,893	:	DECISION GRANTING PETITION
Filed: May 8, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P58370	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 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 June 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

RECEIVED
JUL 28 2010
By 813

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

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

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11-15-2010

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Patent No. : 7,807,410 B2
Serial No. : 11/797,895
Inventor(s) : Kamala L. Janiyani, et. al.
Issued : October 5, 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.

Respecting the alleged error on the title page, item [54] title, it is the practice to exclude words such as "Improvements in", "A", "Novel", "New", etc., from the printed patent.

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period with the sum of $100.00

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch

Michael D. Kaminski
3000 K Street, NW
Suite 600
Washington, DC 20007-5143

eJ.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF ALICIA PORTER
PO BOX 241741
ANCHORAGE, AK 99707

MAILED

MAY 17 2011

OFFICE OF PETITIONS

In re Application of
Susan St. Martin
Application No. 11/797,914
Filed: May 7, 2007
Attorney Docket No.

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 April 1, 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

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Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Patent No. 7,681,502
Issue Date: March 23, 2010
Application No. 11/798,053
Filed: May 9, 2007
Attorney Docket No. BHT/3223-217

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 28, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent and fee waiver.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The Petition fee is waived and is refunded.

The correspondence address is now associated with customer number 91395 as requested.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at 703-756-1555 or Kimberly Terrell at 703-756-1568.

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Ollie Person, RSQ 09 D 30-A (FAX 571-270-9764)
Kimberly Terrell, RSQ 09 D 33 (FAX 571-270-9958)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110926

DATE : November 2, 2011

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7852741

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: /Joseph H. Feild/ **Art Unit** 2627

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STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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SEP 01 2011

OFFICE OF PETITIONS

In re Application of:	:	
Lu et al.	:	
Pat. Num.: 7,663,740	:	
Issue Date: 02/16/2010	:	
Application No. 11/798157	:	ON PETITION
Filing or 371(c) Date: 05/10/2007	:	
Atty. Docket No. IN8239P	:	

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

The petition is **GRANTED**.

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

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/798,167	05/10/2007	Noel R. Monk	104072.B000682	2802

23911 7590 09/02/2011
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
LIU, SAMUEL W

ART UNIT	PAPER NUMBER
1656	

MAIL DATE	DELIVERY MODE
09/02/2011	PAPER

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

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

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SEP 0 2 2011

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

In re Application of	:
Monk	:Decision on Petition
Serial No.: 11/798,167	:
Filed : 10 May 2007	:
Attorney Docket No.: 104072.B000682	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 14 July 2011 requesting reconsideration of the restriction requirement mailed 20 November 2008.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to restriction practice under Chapter 800.

On 20 November 2008, the examiner set forth a restriction requirement which divided claims 1-35 into two groups and then required an election of a single type of cancer from claims 19-24.

On 15 December 2008, applicants elected Group I, claims 1-30, along with colon cancer. Both elections were made with traverse.

On 3 March 2009, the examiner considered the traversal and made the restriction requirement final. Claims 20-21, 23-24, 29-35 were withdrawn from consideration under 37 CFR 1.42(b). Claims 1-19, 22 and 25-28 were examined on the merits. Claims 1-14, 16-19, 22 and 25-29 were then finally rejected on the merits in an Office action mailed 24 December 2009.

On 21 December 2010, applicants filed a Request for Continued Examination.

On 17 February 2011, the examiner mailed an Office action in which claims 20, 21, 24, 25, and 29-35 were withdrawn from consideration. Claims 1-14, 16-19, 22, 25-28, and 36 were rejected on the merits.

On 14 July 2011, applicants filed a response along with this petition.

DISCUSSION

The file history of the instant application has been considered carefully.

The petition points out that the examiner has restricted between types of cancers which are listed as alternatives of a dependent Markush claim.

Independent claim 1 is shown below:

> 1. (Currently Amended) A method of treating cancer, said method comprising administering to a subject in need thereof a pharmaceutically effective amount of a microcystin, wherein the cancer comprises cells that express at least one of OATP1B1 and OATP1B3 and the microcystin has improved cytotoxicity for the cells expressing at least one of OATP1B1 and OATP1B3 as compared to microcystin LR.

Dependent claim 19 is shown below.

> 19. (Original) The method of claim 1, wherein said cancer is selected from the group consisting of: hepatocellular cancer, gastrointestinal cancer, lung cancer, gastric cancer, colon cancer, pancreatic cancer, gall bladder cancer, breast cancer, glioblastoma, and metastatic cancers and intraperitoneal disseminations thereof.

The types of cancers listed in claim 19 are not distinct from each other in that they overlap in scope. For example, a gastric cancer is a type of gastrointestinal cancer; a lung cancer can also be a metastatic cancer. For this reason, the restriction to a particular type of cancer is not appropriate, because the resulting divisional applications would overlap in scope, raising double patenting concerns.

Moreover, independent claim 1 encompasses the treatment of cancers outside those listed in claim 19. For example, melanona is a type of cancer not lsited in claim 19. By requiring applicants to elect a cancer from claim 19 and then limiting the scope of examination to that cancer, applicants have been denied the ability to have the scope of claim 1 examined on the merits in this applications or in the series of divisions which would be necessary to capture the scope of claim 19.

DECISION

The petition filed under 37 CFR 1.144 on 14 July 2011 is **GRANTED**.

The intraclaim restriction requirement to elect a single cancer set forth on 20 November 2008 has been withdrawn.

The application will be forwarded to the examiner to consider the papers filed 14 July 2011 in a manner consistent with this petition decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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WALTER A. RODGERS
RODGERS & RODGERS
6100 LAKE FORREST DRIVE
SUITE 340
ATLANTA GA 30328

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Da Keng	:	
Application No. 11/798,330	:	DECISION ON PETITION
Filed: May 11, 2007	:	
Attorney Docket No. 2460.460NP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 25, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 26, 2010. The Notice of Abandonment was mailed September 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, 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 3641 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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HOFFMAN, WASSON & GITLER, P.C.
Suite 522
2461 South Clark Street
Arlington VA 22202

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of	:	
Bruce Leigh Kiehne	:	
Application No. 11/798,363	:	ON PETITION
Filed: May 14, 2007	:	
Attorney Docket No.	:	

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 **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before March 15, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 15, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 16, 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).

Petitioner has stated in the supporting statement submitted with the instant petition that on "March 5, 2010, the instructing principals, namely the law firm of Cullens in Brisbane, Australia, instructed us **not to pay** the fees . . . the president of such entity, namely Bruce L. Kiehne, had filed for bankruptcy protection in Australia." 35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). **See *In re Application of G***, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Petitioner also states "On May 31, 2010, the undersigned attorney was informed that the administrations of Occupational & Medical Innovations Ltd. (OMI) had entered into an asset sale agreement with Just Innovative Layouts Pty Ltd (JIL). One of the assets involved . . . the sale is U.S. patent application Serial No. 11/798,363. Thus, OMI is obligated to reinstate . . . to 'active' status, and to pay the issue and publication fees." An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. ***See In re Maldague***, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). Here, in view of petitioners' intentional delay in filing the reply that originally resulted in the abandonment, there is a question whether the entire delay was unintentional.

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

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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Suite 522
2461 South Clark Street
Arlington VA 22202

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AUG 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Bruce Leigh Kiehne	:	
Application No. 11/798,363	:	ON PETITION
Filed: May 14, 2007	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 2011, to revive the above-identified application.

BACKGROUND

The application became abandoned for failure to timely pay the issue and publication fees on or before March 15, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 15, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 16, 2010.

A petition to revive was filed on June 18, 2010, and a decision was rendered on January 31, 2011, dismissing the petition on the grounds that the petitioner has not established unintentional delay.

DISSCUSION

Petitioner has stated in the supporting statement submitted with the instant petition that the "acts underlying the present request for reconsideration point out that the administrators of the estate in bankruptcy of OMI ltd., did not considered the merits of the application, which had been allowed, but hesitated

to move forward solely out of financial concerns. . . . No consideration was ever given to the merits of the application, and the decision not to pay the outstanding fees, was made strictly as a financial choice, despite repeated warning about potential loss of patent rights by Regan D. Gourley, Esq."

In the Declaration submitted by Regan Drew Gourley states on page 2, paragraph 9, that "[o]n 5 March 2010, an email message was sent by [his] firm to [the] US associate in response to their reminder of 2 March 2010. In the absence of instructions from the administrators and approval to incur costs on their behalf (even in view of a potential purchaser ...), my firm was left with no alternative other than to **not pay the fees unless instructed otherwise**." Therefore, 35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here, in view of petitioners' intentional delay in filing the reply that originally resulted in the abandonment, there is a question whether the entire delay was unintentional.

As stated in the previous decision of January 31, 2011, an intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. *See In* ***re Maldaque,*** 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). Here, in view of petitioners' intentional delay in filing the reply that originally resulted in the abandonment, there is a question whether the entire delay was unintentional.

CONCLUSION

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

The instructing principals, namely the law firm of Cullens in Brisband, Australia, through their US Associate's instructed **not to pay** the fees and thereby deliberately allowed this application to become abandoned. In the renewed petition, the statements made are directed at an explanation of a deliberate decision made to not pay the Issue and Publication fees. Petitioner still has not met the burden of proof to establish the delay was in fact unintentional. Therefore, the petition will not be granted at this time.

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.

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

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

By hand: U. S. Patent and Trademark Office
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401 Dulany Street
Alexandria, VA 22314

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/798,390	05/14/2007	Hyung-kun Kim	15202-000001/US	4748

7590 01/11/2011
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
CHI, SUBERR L

ART UNIT	PAPER NUMBER
2818	

MAIL DATE	DELIVERY MODE
01/11/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 11, 2011

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
Hyung-Kun Kim et al.	:	**DECISION ON PETITION**
Application No. 11798390	:	
Filed: 5/14/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 15202-000001/US	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 14, 2007.

The petition is **GRANTED**.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of	:
Kayanakis et al.	:
Application No. 11/798,456	: DECISION DISMISSING PETITION
Filed: May 14, 2007	: UNDER 37 CFR 1.55(c)
Attorney Docket No. ASK-021	:

This is a decision on the petition under 37 CFR 1.55(c), filed December 20, 2010, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of French Application No. 06/04363, filed May 16, 2006, and French Application No. 06/04365, Filed May 16, 2006.

The petition is **DISMISSED AS MOOT**.

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Where a claim for priority under 37 CFR § 1.55(c) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.55(c). In the present case, a review of the record confirms that the Office did in fact note the claim for priority to the foreign applications specified in the Declaration filed on October 24, 2007 in the instant application, as shown by the inclusion on the filing receipt mailed November 2, 2007.

Petitioner's attention is directed to MPEP 201.13(E), which states that: for an original application filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the claim for priority must be presented during the pendency of the application, and 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.

The instant pending nonprovisional application was filed after November 29, 2000. While a reference to the prior-filed foreign applications was not presented within four months from the actual filing date of this application, a reference was in fact made within sixteen months from the filing date of the prior-filed foreign applications.

In view of the above, no petition surcharge fee will be required.

Petitioner is advised that a determination that the applicant is entitled to claim benefit of the prior-filed foreign applications will be made by the Examiner.

This matter is being referred to Technology Center AU 2612 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may be directed to Alicia Kelley at (571) 272-6059. All other inquiries should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Kayanakis et al.	:	
Application No. 11/798,456	:	CORRECTED DECISION GRANTING
Filed: May 14, 2007	:	PETITION UNDER 37 CFR 1.55(c)
Attorney Docket No. ASK-021	:	

This is a decision on the petition under 37 CFR 1.55(c), filed December 20, 2010, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of French Application No. 06/04363, filed May 16, 2006 and French Application No. 06/04365 Filed May 16, 2006.

The petition is **GRANTED**.

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant 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. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

MPEP 201.13(E), which states that: for an original application filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the claim for priority must be presented during the pendency of the application, and 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. While the instant application was filed earlier than sixteen months from the filing date of the prior filed foreign applications, the Declaration which included the claim under 35 U.S.C. § 119(a)-(d) was filed on October 24, 2007, which is more than the sixteen months from the filing date of the prior filed foreign applications.

The above-identified pending nonprovisional application was filed on May 14, 2007, which is after November 29, 2000 and within 12 months of May 16, 2006 (the filing date of the foreign applications to which benefit is now being claimed). On October 24, 2007, a Declaration 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 will be required and charged to the deposit account as authorized. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

A copy of the filing receipt mailed November 2, 2007, accompanies this decision.

Petitioner is advised that a determination that the applicant is entitled to claim benefit of the prior-filed foreign applications will be made by the Examiner.

This matter is being referred to Technology Center AU 2612 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may be directed to Alicia Kelley at (571) 272-6059. All other inquiries should be directed to the Technology Center.

/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
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/798,456	05/14/2007	2821	695	ASK-021	1	1

CONFIRMATION NO. 5104

UPDATED FILING RECEIPT

32954
JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

OC000000026576123

Date Mailed: 11/02/2007

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)

Georges Kayanakis, Antibes, FRANCE;
Yannick Grasset, Vallauris, FRANCE;
Elias Sabbah, Valbonne, FRANCE;

Power of Attorney:
James Lydon--30082

Domestic Priority data as claimed by applicant

Foreign Applications
FRANCE 0604363 05/16/2006
FRANCE 0604365 05/16/2006

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

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

Title

Contactless radiofrequency device featuring several antennas and related antenna selection circuit

Preliminary Class

343

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/798,467	05/14/2007	Andrew Castellano	0063-120002/BU3278D1	5099

57246 7590 07/05/2011
BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

EXAMINER
PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	

NOTIFICATION DATE	DELIVERY MODE
07/05/2011	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):

BILL@BRAKEHUGHES.COM
uspto@brakehughes.com
docketing@cpaglobal.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis MN 55402

In re Application of: CASTELLANO et al.
Application No. 11/798,467
Filed: May 14, 2007
Attorney Docket #: 0063-120002/BU3278D1
For: ADJUSTABLE ELASTICITY FIFO BUFFER WITH PRELOAD VALUE HAVING A NUMBER OF STORAGE CELLS EQUAL TO FREQUENCY OFFSET TIMES BETWEEN DATA UNITS IN A DATA STREAM

DECISION ON PETITION

This is a decision on the petition filed on May 3, 20011, under 37 CFR 1.181(a) to invoke Supervisory Authority , requesting withdrawal of the finality of Office action mailed February 3, 2011.

A review of the file wrapper record shows that a Notice of Allowance was issued in the instant application on June 8, 2011.

Accordingly, the instant petition, filed under 37 CFR §1.181 in this application, is rendered moot.

Accordingly, the Petition is **DISMISSED as moot**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

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

Mano Padmanabhan, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/798,581	05/15/2007	Lucio Andrade-Cetto	0069-0009	6036

7590 02/03/2011
HARRITY & HARRITY, LLP
11350 RANDOM HILLS RD.
SUITE 600
FAIRFAX, VA 22030

EXAMINER
BHARADWAJ, KALPANA

ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
02/03/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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February 3, 2011

HARRITY & HARRITY, LLP
11350 RANDOM HILLS RD.
SUITE 600
FAIRFAX VA 22030

In re Application of	:	
Lucio Andrade-Cetto	:	**DECISION ON PETITION**
Application No. 11798581	:	
Filed: 5/15/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 0069-0009	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 15, 2007.

The petition is **GRANTED**.

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

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

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

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

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KILPATRICK TOWNSEND & STOCKTON LLP
1100 Peachtree Street
Suite 2800
ATLANTA GA 30309

MAILED

DEC 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Ginger Patera et al.	:	
Application No. 11/798,606	:	DECISION ON PETITION
Filed: May 15, 2007	:	TO WITHDRAW
Attorney Docket No. WPM0001-US (58236-344112)	:	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 7, 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 forwarding address was not provided. The request to change the correspondence address should be that of the: (1) the first named signing inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request.

According to the records of the assignment branch an assignment was recorded on August 13, 2007. Upon the filing of a renewed request, a proper request will include a copy of the actual assignment or a statement under 37 CFR 3.73(b).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111107

DATE : November 07, 2011

TO SPE OF : ART UNIT 3633

SUBJECT : Request for Certificate of Correction on Patent No.: 7966772

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:

/BRIAN GLESSNER/
Supervisory Patent Examiner.Art Unit 3633

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WPAT, PC
INTELLECTUAL PROPERTY ATTORNEYS
1100 QUAIL STREET, SUITE 202
NEWPORT BEACH CA 92660

MAILED
AUG 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Jong et al.	:	
Application No. 11/798,655	:	DECISION ON PETITION
Filed: May 16, 2007	:	
Attorney Docket No. 19808-412	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed December 23, 2010, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 25, 2011. A Notice of Abandonment was mailed April 1, 2011.

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

The application file is being referred to Technology Center AU 2811 for appropriate action on the amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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WPAT, PC
INTELLECTUAL PROPERTY ATTORNEYS
1100 QUAIL STREET, SUITE 202
NEWPORT BEACH CA 92660

MAILED

JAN 26 2012

OFFICE OF PETITIONS

In re Patent No: 8,097,476	:	
Issued: January 17, 2012	:	
Application No. 11/798,655	:	NOTICE
Filed: May 16, 2007	:	
Attorney Docket No. 19808-412	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 14, 2011.

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since petitioner's deposit account had insufficient funds to cover the required $870.00 deficiency fee submission requested by attorney, Anthony S. King.

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

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

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

/Joan Olszewski/
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

WPAT, PC
INTELLECTUAL PROPERTY ATTORNEYS
1100 QUAIL STREET, SUITE 202
NEWPORT BEACH CA 92660

MAILED
MAR 05 2012
OFFICE OF PETITIONS

In re Patent No. 8,097,476	:	
Issued: January 17, 2012	:	
Application No. 11/798,655	:	NOTICE
Filed: May 16, 2007	:	
Attorney Docket No. 19808-412	:	

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 7, 2012.

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Michael Rodney Jackson :
Application No. 11/798,858 :
Filed: May 17, 2007 :
Attorney Docket No. **617952000100** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed February 2, 2011.

The request is **NOT APPROVED**.

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

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

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

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **INVELUS COMMUNICATIONS LLC**
5406 MERSEA COURT
BURKE, VA 22015

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED
MAY 23 2011
OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1050 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Michael Rodney Jackson	:	
Application No. 11/798,858	:	DECISION ON PETITION
Filed: May 17, 2007	:	TO WITHDRAW
Attorney Docket No. 617952000100	:	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 March 23, 2011

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Adam Keser on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed December 30, 2010 that requires a reply from the applicant.

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Invelus Communications LLC**
5406 Mersea Court
Burke, VA 22015

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/798,858	05/17/2007	Michael Rodney Jackson	617952000100

CONFIRMATION NO. 7764

POWER OF ATTORNEY NOTICE

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

OC000000047796350

Date Mailed: 05/20/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2011.

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

/tsjohnson/

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

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

MAILED

JAN 30 2012

OFFICE OF PETITIONS

In re Application of	:	
DAVID WILLIAM ET AL.	:	
Application No. 11/798,902	:	DECISION ON PETITION
Filed: May 17, 2007	:	TO WITHDRAW
Attorney Docket No. **610P057**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 14, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 27557 has been revoked by the assignee who has intervened as provide by 37 CFR 3.71 on September 15, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 102
ITHACA NY 14850-1248

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOND SCHOENECK & KING PLLC
10 BROWN ROAD
SUITE 102
ITHACA NY 14850-1248

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OFFICE OF PETITIONS

In re Application of	:	DECISION
Williams, et al.	:	ON PETITION
Application No. 11/798,902	:	
Filed: May 17, 2007	:	
Attorney Docket Number: 610P057	:	

This is in response to the petition under 37 CFR 1.84(a)(2), filed September 17, 2007, for acceptance of color drawings.

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 1.84(a)(2)". No further petition fee is required for a renewed petition.

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

(1) The fee set forth in 37 C.F.R. 1.17(h);

(2) Three (3) sets of color drawings, or one (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.

In addition, MPEP 608.02 states that a petition to accept color drawings will only be granted when the Office "has determined that a color drawing or photograph is the only practical medium by which to disclose in a printed utility patent the subject matter to be patented."

Here, the Office has determined that color drawings are not the only practical medium by which to disclose the subject matter. See, e.g. MPEP 608.02, Section IX, which states that drawing symbols can be used to indicate various materials where the material is an important feature of the invention.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

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

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

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Skarby et al.	:	DECISION ON PETITION
Application No. 11/798,921	:	TO WITHDRAW
Filed: May 17, 2007	:	FROM RECORD
Attorney Docket No. JRL-2380-1053	:	

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 12, 2010.

The request is **NOT APPROVED**.

Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and
>
> (3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Further, the Office will <u>only</u> accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor.

The Office will not change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. If the applicants wish future correspondence to be mailed to a new law firm, a new power of attorney should be submitted in the application and should include the desired change of correspondence address. Accordingly, as the Request to Withdraw specified a law firm as the new correspondence address of record, the request cannot be granted at this time.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action, mailed September 14, 2010, which requires a reply. Failure to timely and properly do so will result in abandonment of the instant application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/799,190	05/01/2007	Richard L. Valley	TI-63804	7524

23494 7590 09/09/2010
TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

EXAMINER
MEHARI, YEMANE

ART UNIT	PAPER NUMBER
2838	

NOTIFICATION DATE	DELIVERY MODE
09/09/2010	ELECTRONIC

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

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

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

uspto@ti.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM B. KEMPLER
TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TEXAS 75265

In re Application of: Richard Valley et al. Serial No: 11/799,190 Filed: May 1, 2007 Title: SYSTEM AND METHOD FOR PHASE MANAGEMENT IN A MULTIPHASE SWITCHING POWER SUPPLY	:: :: : :	DECISION ON PETITION TO ENTER RESPONSE TO FINAL ACTION

This is a decision on the petition, under 37 C.F.R. § 1.181, filed on April 9, 2010, requesting that the amended claims filed on March 17, 2010 in the Amendment After Final Rejection be entered.

The petition to enter the amended claims is DENIED to the extent indicated below.

Petitioner asserts that the Advisory was improper because "[a]mended claim 1 is a combination of previously presented claim 1 and original claim 2...claim 2 was cancelled. Amended claim 12 is a combination of previously amended claim 12 and original claim 14. Claim 14 was cancelled. Presumably, the Examiner both searched and considered claims 2 and 14 when he rejected them in the first Official Action mailed on 6/24/2009...and in the Final Official Action mailed 12/18/2009. Therefore, no further search or consideration is now needed. Furthermore, the reduction in the number of claims for presentation on appeal does not constitute materially reducing or simplifying the issues for appeal, so that the amended claims should have been entered."

A review of the claims reveals that the Amendment After Final Rejection changes the scope of the claims. It is agreed that independent claim 1 now includes the limitations "a current sensitive device coupled to the input and operable to provide a measure of power supply input current as the indication" of claim 2 and does not change the scope of finally rejected claims 2 and 3. However, the amendment changes the scope of claims 4 through 7 which, when finally rejected, do not include the combinations having "a current

sensitive device coupled to the input and operable to provide a measure of power supply input current as the indication" that is now added to claim 1. The final rejections do not include treatment of the above-noted combinations. Accordingly, entry of the Amendment After Final Rejection would require further consideration and a new ground of rejection for claims 4 through 7. Likewise, independent claim 12 now includes the limitations "comprising measuring input current" of claim 14. While entry of this amendment does not change the scope and thus the rejection of claim 12, such entry would change the scope of claims 13 and 16 through 20 that would require further consideration because the final rejections of claims 13 and 16 through 20 would no longer be applicable. Entry of the Amendment After Final Rejection would require further consideration of claims 4 through 7, 13 and 16 through 20 since they include combinations not previously presented. Further, petitioner has failed to show why the amendment is necessary and could not have been presented earlier during prosecution.

For the above stated reasons, the petition is hereby denied and the amended claims filed on March 27, 2010 as an Amendment After Final Rejection will not be entered.

Any inquiry regarding this decision should be directed to Monica Lewis, Supervisory Patent Examiner, at (571) 272-1838.

John W. Cabeca, TC Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/799,211	04/30/2007	David B. DeGraaff	INTU-071534CIP1	5816

63773 7590 04/19/2012
PVF -- INTUIT, INC.
c/o PARK, VAUGHAN, FLEMING & DOWLER LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

EXAMINER
TO, BAOQUOC N

ART UNIT	PAPER NUMBER
2162	

MAIL DATE	DELIVERY MODE
04/19/2012	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
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April 18, 2012

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

In re Application of	:	
David B. Degraaff et al.	:	**DECISION ON PETITION**
Application No. 11799211	:	
Filed: 04/30/2007	:	
Attorney Docket No. **INTU-071534CIP1**	:	

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) April 30, 2007.

The petition is **DISMISSED.**

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

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

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

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

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

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

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OFFICE OF PETITIONS

King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

In re Application of :
Mochly-Rosen, et al. :
Application No. 11/799,290 : ON APPLICATION FOR
Filed: April 30, 2007 : PATENT TERM ADJUSTMENT
Attorney Docket No. 58600-8208.US02:

This is in response to the "STATEMENT OF FACTS UNDER 37 CFR § 1.705(b) IN SUPPORT OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed October 12, 2010. Applicants request that the determination of patent term adjustment be corrected from two hundred and forty-three (243) days to two hundred and twenty-two (222) days. Applicants request this correction, in part, 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].

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 May 10, 2010.

The fee set forth in 37 CFR 1.18(e) is of record. No additional fees are required.

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

Applicants maintain that the patent term adjustment should be reduced by an additional 30 days pursuant 37 CFR 1.704(b). More specifically, applicants' state:

> A Notice to Comply with Requirements for Sequence Disclosures was mailed on 31 July 2007, and Applicants mailed a response with a request for an extension of time on 30 October 2007. Thus, Applicants' delay resulted in a debit of 30 days PTA.

Excerpt taken from "STATEMENT OF FACTS UNDER 37 CFR § 1.705(b) IN SUPPORT OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed October 12, 2010, pg. 2.

Applicants' argument is not persuasive. There is reduction to the patent term adjustment warranted for the filing of the response on October 30, 2007. With respect to patent term adjustment, the period for response under 37 CFR 1.704(b) is three months from the mailing date of the Office action, notwithstanding the period for reply set forth in the Office action itself. In this case, the notice of July 31, 2007, set a two month period for reply, but this has on bearing on the period set by 37 CFR 1.704(b). Accordingly, because a response to the Notice of July 31, 2007, was filed within three months of the mailing date thereof, no reduction to the patent term adjustment is warranted.

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.

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
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SOLAE, LLC
4300 DUNCAN AVENUE
LEGAL DEPARTMENT E4
ST. LOUIS, MO 63110

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OFFICE OF PETITIONS

In re Application of	:	
Martin et al.	:	
Application No. 11/799,388	:	DECISION ON PETITION
Filed: May 1, 2007	:	
Attorney Docket No. TK3895USDIV	:	

This is a decision on the petition, filed October 22, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply in a timely manner to the Non-Final Office action mailed January 2, 2008.

Petitioner requests that the abandonment be withdrawn since the correspondence address of record is incorrect. As a result, the Office action dated January 2, 2008, was not received. Petitioner asserts that at the time of filing the subject application an ADS was submitted which listed the correct customer number as the correspondence address.

Petitioner's attention is directed to 37 CFR 1.33(a), which provides that the application must specify a correspondence address to which the Office will send notice, letters, and other communications relating to an application. The correspondence address must either be in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with the application filing. If more than one correspondence address is specified in a single document or in more than one paper that is filed with an application and the address given conflicts, the Office will select one of the specified addresses for use as the correspondence address. Priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney.

Further, a review of the written file record does not indicate that an application data sheet was submitted at the time of filing the above identified application. The attorney filing the application

specified customer number 44388 as the correspondence address on the transmittal signed on May 1, 2007. The subsequent letter filed July 10, 2007, did not specify that it was in fact a change of correspondence address.

In view of the above, the petition requesting withdrawal of the holding of abandonment cannot be granted.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: STEVEN BENJAMIN
E I DUPONT DE NEMOURS AND CO
4417 LANCASTER PIKE
25/2322 BARLEY MILL PLAZA
WILMINGTON, DE 19805

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SEP 02 2011

OFFICE OF PETITIONS

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

In re Patent No. 7,971,018
Issued: June 28, 2011
Application No. 11/799,392
Filed: May 1, 2007
Attorney Docket No. 23718-0065001 / ADII-08-101US

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on August 29, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 187 to 298 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On June 28, 2011, the above-identified application matured into U.S. Patent No. 7,971,018, with a revised patent term adjustment of 187 days. On August 29, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 298. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on March 10, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 111 day period from March 10, 2011 (the mailing date of the Notice of Allowance) until June 28, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 111 days and be increased from 19 to 130 days. Patentee concludes that the correct patent term adjustment is 298 days (the sum of 294 days of "A delay" and 130 days of "B delay" minus 126 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

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

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

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

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 19 days based on the application having been filed under 35 U.S.C.

111(a) on May 11, 2007 and the patent not having issued as of the day after the three year date, May 11, 2010, and a request for continued examination under 132(b) having been filed on May 21, 2010. In other words, the 111-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is

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[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

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

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

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

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

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

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

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

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

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

delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

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

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

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

entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

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

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

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

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years

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

provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on May 21, 2010, and the patent issued by virtue of that request on June 28, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on May 21, 2010 and ending on June 29, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 187 days indicated on the patent is correct.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Harry E. Smith Jr., :
Application No. 11/799,538 : DECISION ON PETITION
Filed: May 2, 2007 :
Attorney Docket No. **151098** :

This is a decision on the petitions filed on November 8, 2011, under (a) the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application and (b) for expedited consideration under 37 CFR 1.182, thereof for the above-identified application.

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

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 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
June 24, 2010.

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

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

inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 2472 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
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Chung P. Park
121 K Revere Street
Canton MA 02021

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of
Park
Application No. 11/799,621
Filed: May 2, 2007
For: METHOD OF MANUFACTURING FLAME-RETARDANT POLYMER FOAM COMPRISING A PHOSPHOROUS FLAME RETARDANT AND FLAME-RETARDANT FOAM PRODUCED THEREBY

: DECISION ON PETITION

The above-identified application has been directed to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181 filed August 31, 2010.

This application became abandoned July 30, 2010 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed April 29, 2010. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 16, 2010.

Petitioner attributes the holding of abandonment of the application to non-receipt of the Notice mailed April 29, 2010. Petitioner further states that he frequently travels and was out of town from May 5, 2010 to May 24, 2010 when he could have received the Notice. Petitioner further asserts that the Notice possibly "got lost in the pile of the accumulated mails midst my hectic travel schedule."

A review of the record indicates no irregularity in the mailing of the Notice. In the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. As petitioner has provided no evidence to establish non-receipt of the Office communication, the Office is not persuaded that the Office communication was not received at the correspondence address of record.

Petitioner has failed to 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 has failed to explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after April 29, 2010, to demonstrate non-receipt of the Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to the Notice, and where petitioner would have

entered the receipt date of the Notice had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Notice, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after April 29, 2010; the period when he would have received the Notice. Moreover, petitioner must explain what procedure, if any, was in place to ensure receipt of mail during his "hectic" travel schedule, as petitioner's preoccupation with other matters, such as travel, is not grounds for the withdrawal of the holding of abandonment.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the Notice.

In view of the above findings, the petition to withdraw the holding of abandonment is **DISMISSED**.

Any request for reconsideration must be accompanied by documentary evidence to establish non-receipt of the Notice.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the 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 revival under 37 CFR 1.137(b). **See**, enclosed.

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

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 04/29/2010

Chung P. Park
121 K Revere Street
Canton, MA 02021

EXAMINER
KRYLOVA, IRINA

ART UNIT	PAPER NUMBER
1796	

DATE MAILED: 04/29/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/799,621	05/02/2007	Chung Poo Park		6021

TITLE OF INVENTION: METHOD OF MANUFACTURING FLAME-RETARDANT POLYMER FOAM COMPRISING A PHOSPHOROUS FLAME RETARDANT AND FLAME-RETARDANT FOAM PRODUCED THEREBY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	07/29/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 04/29/2010

Chung P. Park
121 K Revere Street
Canton, MA 02021

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/799,621	05/02/2007	Chung Poo Park		6021

TITLE OF INVENTION: METHOD OF MANUFACTURING FLAME-RETARDANT POLYMER FOAM COMPRISING A PHOSPHOROUS FLAME RETARDANT AND FLAME-RETARDANT FOAM PRODUCED THEREBY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	07/29/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
KRYLOVA, IRINA	1796	521-085000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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7590 04/29/2010

Chung P. Park
121 K Revere Street
Canton, MA 02021

EXAMINER
KRYLOVA, IRINA

ART UNIT	PAPER NUMBER
1796	

DATE MAILED: 04/29/2010

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 390 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 390 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	11/799,621	PARK, CHUNG POO	
	Examiner	Art Unit	
	Irina Krylova	1796	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *01/25/10*.

2. ☒ The allowed claim(s) is/are *1-21*.

3. ☒ 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 the:
      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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date *04/26/10* .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Irina Krylova/ Examiner, Art Unit 1796	/Vasu Jagannathan/ Supervisory Patent Examiner, Art Unit 1796

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dr. Chung P. Park on April 26, 2010.

The application has been amended as follows:

2. Abstract:

The present invention concerns a method of manufacturing flame-retardant polyethylene or polypropylene foam using a derivative of carboxylic acid of ~~phenylphosphonic~~ phenylphosphinic acid and the flame-retardant polymer foam made thereby. More specifically, this invention concerns a method of manufacturing highly expanded flame-retardant polymer foam prepared by mixing the above mentioned phosphorous flame retardant in a polymer resin and expanding the mixture with a volatile blowing agent or by applying a solution of an organic phosphorous compound to an already-made highly expanded foam and then drying the highly-expanded polymer foam, and the flame-retardant foam prepared thereby.

3. Specification:

1) On page 10 of specification, the fourth paragraph, lines 9-14, is amended as follows:

The content of the fore-mentioned phosphorous flame retardant in a flame-retardant polymer foam according to this invention is, on a dry basis, in the range from 0.1 parts per hundred parts of the polymer resin to 50 parts per hundred parts of the polymer resin. ~~A flame retardant content less than 0.1 parts per hundred parts of the polymer resin would result in a foam of unsatisfactory flame retardance and adding more than 50 parts per hundred parts of the polymer resin is anticipated to be difficult to operate and uneconomical.~~

Examples and comparative examples of invention are described to the greater detail in the following.

2) On page 1 of specification, the first paragraph is amended as follows:

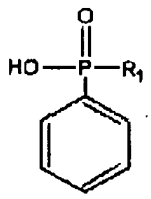
TITLE OF THE INVENTION

Method of manufacturing flame-retardant polymer foam comprising a ~~phosphorus~~ <u>phosphorous</u> flame retardant and flame-retardant polymer foam produced thereby

4. Claims are amended as follows:

1. (Currently amended) A highly expanded flame-retardant polymer foam of expansion ratio greater than 4.5 ~~containing~~ prepared from a polymer resin selected from the group consisting ~~essentially~~ of polypropylene homopolymers, polypropylene copolymers containing greater than 50% propylene moiety, polyethylene homopolymers, polyethylene copolymers and blends there of, and an organic phosphorous flame retardant selected from the derivatives of carboxylic acid of ~~phenylphosphonic~~ phenylphosphinic acid as depicted by chemical formula 1 below:

Chemical Formula 1



where R_1 is $-CH_2COOH$, CH_2CH_2COOH or $-COOH$.

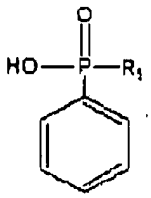
2. (Currently amended) The highly expanded flame-retardant polymer foam in Claim 1 wherein the derivative of carboxylic acid of ~~phenylphosphonic~~ phenylphosphinic acid is 3-(hydroxyphenylphosphinyl) propanoic acid.

5. (Currently amended) The highly expanded flame-retardant polymer foam in Claim 1 wherein the polymer resin is a resin blend ~~composition~~ comprising 50% or more of propylene moiety.

6. (Currently amended) The highly expanded flame-retardant polymer foam in Claim 1 wherein the polymer resin is ~~a~~ polypropylene homopolymer.

12. (Currently amended) The method of preparing a flame-retardant polymer foam using a phosphorous flame retardant in Claim 10 wherein the solution of organic phosphorous flame retardant is an aqueous or alcoholic solution of a derivative of carboxylic acid of ~~phenylphosphonic~~ phenylphosphinic acid as depicted by chemical formula 1 below:

Chemical Formula 1



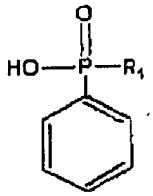
where R_1 is $-CH_2COOH$, CH_2CH_2COOH or $-COOH$.

13. (Cancelled)

16. (Currently amended) The method of preparing a flame-retardant polymer foam using a phosphorous flame retardant in Claim ~~16~~ 10 wherein the polymer resin is a polymer blend ~~has~~ comprising 50% or more of propylene moiety.

17. (Currently amended) The method of preparing a flame-retardant polymer foam using a phosphorous flame retardant in Claim ~~16~~ 10 wherein the polymer resin is a polypropylene homopolymer having a melt flow index of 3 or lower.

21. (Currently amended) A method of preparing a flame-retardant polymer foam in Claim 1 by mixing a derivative of carboxylic acid of ~~phenylphosphonic~~ phenylphosphinic acid as depicted by chemical formula 1 below in a molten polymer resin and volatile blowing agent and foaming the mixture by the extrusion process.



where R_1 is $-CH_2COOH$, CH_2CH_2COOH or $-COOH$.

5. Claims are renumbered as follows:

Claim 1 becomes claim 1.

Claim 2 becomes claim 2, depends on claim 1.

Claim 3 becomes claim 3, depends on claim 1.

Claim 4 becomes claim 4, depends on claim 1.

Claim 5 becomes claim 5, depends on claim 1.

Claim 6 becomes claim 6, depends on claim 1.

Claim 7 becomes claim 7, depends on claim 1.

Claim 8 becomes claim 8, depends on claim 1.

Claim 9 becomes claim 9, depends on claim 8.

Claim 10 becomes claim 10, depends on claim 1.

Claim 11 becomes claim 11, depends on claim 10.

Claim 19 becomes claim 12, depends on claim 11.

Claim 12 becomes claim 13, depends on claim 10.

Claim 14 becomes claim 14, depends on claim 13.

Claim 15 becomes claim 15, depends on claim 10.

Claim 18 becomes claim 16, depends on claim 15.

Claim 16 becomes claim 17, depends on claim 10.

Claim 17 becomes claim 18, depends on claim 10.

Claim 20 becomes claim 19, depends on claim 10.

Claim 21 becomes claim 20, depends on claim 1.

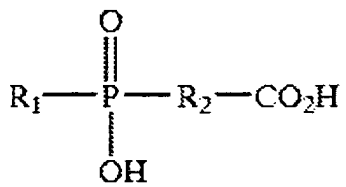
Claim 22 becomes claim 21, depends on claim 20.

Statement of Reasons for Allowance

6. The following is an examiner's statement of reasons for allowance:

claims 1-21 are allowable over the "closest" prior art, namely, **Park** (US 2004/0039072), **Yang et al** (US 2004/0198877), **Flanders** (US 2006/0222774).

7. Yang et al (US 2004/0198877) discloses a thermoplastic polymer composition comprising polypropylene and/or polyethylene and carboxy phosphinic acid compound of the formula I below as a flame retardant:



Formula I

wherein R_1 comprises aryl of C6-10, and R_2 comprises an alkylene of C_{1-12} (p. 7, claim 9). However, **Yang et al** fails to teach the composition being a highly expanded polymer foam of expansion ratio greater than 4.5.

8. Flanders (US 2006/0222774) discloses a method for producing a flame retardant polypropylene foam comprising taking a foamed material; impregnating the foamed material with a solution of flame retardant by immersing the foam in a bath of the flame retardant solution, wherein the flame retardant comprises phosphate esters ([0042]); compressing the foam and drying to evaporate the solvent ([0044]). However, **Flanders** fails to specify the flame retardant being a carboxy phosphinic acid compound of formula 1, as claimed in the instant invention.

9. Park (US 2004/0039072) discloses a process for producing a open cell foam comprising: a) converting the polymers into a melt, b) adding the blowing agents and flame retardant to the melt, and c) extruding the melt through a die into a zone of reduced pressure to promote the foaming ([0051]-[0054]). However, **Park** fails to specify the flame retardant being a carboxy phosphinic acid compound of formula 1, as claimed in the instant invention.

10. Further prior art search uncovered an additional reference of interest, i.e. **Bauer et al** (US 7,655,715). **Bauer et al** discloses a composition and articles produced by foam injection molding comprising a flame-retardant having the formula 1 as claimed in the

instant invention and a thermoplastic polymer comprising polyethylene or polypropylene (Abstract, col. 10, lines 35-58). However, **Bauer et al** fails to specify the molding article being a highly expanded polymer foam of expansion ratio greater than 4.5, and therefore, the instant claims 1-21 are allowable over **Bauer et al** (US 7,655,715) as well.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina Krylova whose telephone number is (571)270-7349. The examiner can normally be reached on Monday-Friday 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasudevan Jagannathan can be reached on (571)272-1119. 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.

/Irina Krylova/
Examiner, Art Unit 1796

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1796

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FEB 28 2011
OFFICE OF PETITIONS

Chung P. Park
121 K Revere Street
Canton MA 02021

In re Application of
Park
Application No. 11/799,621
Filed: May 2, 2007
For: METHOD OF MANUFACTURING FLAME-RETARDANT POLYMER FOAM COMPRISING A PHOSPHOROUS FLAME RETARDANT AND FLAME-RETARDANT FOAM PRODUCED THEREBY

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2010.

The petition is **GRANTED**.

This application became abandoned July 30, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed April 29, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed August 16, 2010.

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

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:	
Ahmed K. Elony et al.	:	
Application No. 11/799,636	:	Decision Refusing to Accord
Filed: May 2, 2007	:	Status Under 37 C.F.R. § 1.47(a)
Attorney Docket No. 10423M	:	
For: Embossed Multi-Ply Fibrous	:	
Structure Report	:	

This is a decision addressing a letter filed July 20, 2007, which is being treated as a petition under 37 C.F.R. § 1.47(a).

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 C.F.R. § 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

Background

The declaration filed with the instant petition is signed by all of the inventors except the first inventor. The declaration identifies the first inventor as Ahmed Kamal Elony. The petition asserts P&G "has been unable to reach Mr. Elony."

Elony began working for the Proctor & Gamble Company ("P&G") during 2000. The petition indicates Elony is no longer employed at P&G, but does not indicate the date Elony ceased his employment with P&G.

On a date prior to May 16, 2007, P&G attempted to mail personal belongings left by Elony to Elony. DHL indicated its attempts to deliver the items were unsuccessful and indicated the house at the address appeared to be empty.

The petition, signed by Jason P. Muncy as Senior Counsel for P&G, asserts Elony was represented by Carrie A. Barron, a member of the law firm of Freking & Betz. On May 24, 2007, Muncy sent a cover letter, Elony's personal belongings, a copy of a declaration for the instant application, and several other items to Barron. The May 24, 2007 cover letter does not indicate the items sent on May 24, 2007, included a copy of the instant application. The petition states, "Ms. Barron has indicated to me that she has been unable to make contact with Mr. Elony to date." The petition is dated July 16, 2007. A statement by Barron has not been filed.

Opinion

A grantable petition under 37 C.F.R. § 1.47(a) requires

(1) Proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) A proper oath or declaration executed by the available joint inventor(s),
(3) The fee of $200 as specified in 37 C.F.R. § 1.17(g), and
(4) The last known address of the non-signing inventor(s).

The petition fails to satisfy requirement (1) set forth above.

The Petition Fails to Establish, Despite Diligent Effort, Elony Cannot be Found or Reached.

On a date prior to May 16, 2007, Muncy learned Elony no longer appeared to reside at P&G's last known address for Elony as a result of information obtained from DHL. Thereafter, Muncy sent the declaration for the instant application and other items to Barron and requested she forward the declaration and other items Elony. However, Barron was unable to contact the inventor.

Sending correspondence to an attorney, who is unable to contact an inventor, and requesting the attorney forward the correspondence to the inventor is not the equivalent of diligent effort to find the inventor. Therefore, the petition cannot be granted.

Any request for reconsideration should be accompanied by a showing of a diligent effort, such as conducting internet searches, to find Elony.

The Non-Signing Inventor's Name.

Application No. 10/840,042 was filed May 25, 2004. The declaration filed in Application No. 10/840,042 identifies Lamar Ahmed Elony as an inventor. Lamar Elony and the other inventors assigned their rights in the invention to P&G. The recorded assignment states all the inventors made the invention while employed by P&G or one of its affiliates. Application No. 10/840,042 is titled "Patterned Fibrous Structures." The instant application is titled "Embossed Multi-Ply Fibrous Structure Report."

Application No. 11/105,998 was filed March 8, 2005. The declaration filed in Application No. 11/105,998 identifies Lamar Ahmed Elony as an inventor. Lamar Elony and the other inventors assigned their rights in the invention to P&G. The recorded assignment states all the inventors made the invention while employed by P&G or one of its affiliates. Application No. 11/105,998 is titled "Patterned Fibrous Structures." As previously stated, the instant application is titled "Embossed Multi-Ply Fibrous Structure Report."

In view of the prior facts, The Office strongly recommends petitioner take steps to verify the non-signing inventor's name is Ahmed Kamal Elony prior to filing a request for reconsideration.

IF the non-signing inventor's name is actually Lamar Ahmed Elony, petitioner *may* wish to consider the following facts when making an attempt to locate the non-signing inventor:

1. Application No. 29/322,159 was filed July 30, 2008. The declaration filed in Application No. 29/322,159 lists Lamar A. Elony as an inventor and identifies his address as 251 William Livingston Court, Princeton, NJ 06540. Elony's signature is dated July 29, 2008. An assignment from Elony to McNeil-PPC, Inc. was recorded on August 7, 2008.

2. Application No. 12/899,998 was filed October 7, 2010. The declaration file din Application No. 12/899,998 lists Lamar Elony as an inventor and identifies his address as 5729 Rubblestone Drive, McKinney, TX 75070. Elony's signature is dated January 7, 2010. An assignment from Elony to Frito-Lay North America, Inc. was recorded on January 31, 2011.

Conclusion

In view of the prior discussion, the petition cannot be granted.

The required petition fee of $200 has been charged to Deposit Account No. 16-2480 pursuant to the general fee authorization set forth in the Response to Notice to File Missing Parts filed with the petition on July 20, 2007.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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.
11/799,639	05/02/2007	Jeffrey Glen Sheehan	10397M	5994

27752 7590 03/21/2011
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER
FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
1741	

MAIL DATE	DELIVERY MODE
03/21/2011	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

3/21/11

wk

In re application of	:	
Sheehan et al.	:	DECISION ON
Serial No. 11/799,639	:	PETITION
Filed: May 2, 2010	:	
For: Fibrous Structure Product With High Bulk		

This is a decision on the request filed on March 9, 2011. The request is to resend and reset the response period from the Office Action mailed August 19, 2010. Applicants became aware that an Office Acton was mailed after being contacted by the Examiner. The Examiner alerted Applicant that a response to the Office Action of August 19, 2010 had not been received and that the application was now abandoned. Applicants, after notification, searched hard copy files as well as electronic database files and their complete docketing system for the Office Action.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the

nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

The petitioner has not provided any evidence of nonreceipt of the Office Action.

The Petition is **DENIED.**

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

Roddy M. Bullock
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

MAILED
APR 02 2012
OFFICE OF PETITIONS

In re Patent No. 8,135,206	:	
Issue Date: 03/13/2012	:	
Application No. 11/799,656	:	ON PETITION
Filed: 05/02/2007	:	
Attorney Docket No. 5485-18	:	

This is a decision on the petition under 37 CFR 1.183, which is being treated as a petition under 37 CFR 3.81(b) filed on March 13, 2012, to correct the names of the assignees on the front page of the above-identified patent by way of a Certificate of Correction.

Pursuant to 37 CFR 3.81(b):

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

The request is **DISMISSED**.

Petitioners did not include a draft Certificate of Correction stating the correction requested. A completed Certificate of Correction form (PTO/SB/44) accompanied by the requisite fee set forth in 37 CFR 1.20(a) should be submitted with any renewed request.

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

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

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

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

Correspondence may also be submitted electronically via EFS-Web.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

MAILED
APR 17 2012
OFFICE OF PETITIONS

In re Patent No. 8,135,206	:	
Issue Date: March 13, 2012	:	
Application No. 11/799,656	:	ON PETITION
Filed: May 2, 2007	:	
Attorney Docket No. 5485-18	:	

This is a decision on the renewed petition under 37 CFR 3.81(b) filed on April 12, 2012, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Patentees request correction of the front page of the Letters Patent to include the correct assignee data via Certificate of Correction. Patentees submitted a completed Certificate of Correction form and paid the requisite fees. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee data is GRANTED.

The Office finance records indicate that patentees paid the $130.00 processing fee on March 13, 2012, and again on April 12, 2012. The duplicate payment of $130.00 is unnecessary and will be refunded to the Deposit Account in due course.

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 as to the assignment information.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Jafari, et al.	:	
Application No. 11/799,695	:	ON REQUEST FOR
Filed: May 1, 2007	:	RECONSIDERATION OF
Attorney Docket Number: 8907-121-999	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 1, 2011. Applicants request that the total PTA as of the mailing of the initial determination of patent term adjustment be corrected to 635 days. In addition, Applicants request that the PTA be adjusted due to the Office's failure to issue the patent within three years.

In so far 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 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].

However, applicants also point out that they should not have been assessed delay under 37 CFR 1.704(b) for filing a late reply to a Notice to File Missing Parts mailed on June 5, 2007. A review of that Notice reveals that it was mailed to the wrong address, and was later withdrawn. Accordingly, the Office should not have assessed any days of Applicant delay with respect to this Notice.

In view thereof, the correct determination of PTA at the time of mailing of the Notice of Allowance is **six hundred thirty-five (635) days** (693 days of PTO delay, reduced by 58 (30+28) 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).

The 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) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: copy of revised PAIR screen

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

Patent Term Adjustments

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

Application Number*: 11799695 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11799695

Application Filing Date	05/01/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	693
A Delays	693	PTO Manual Adjustment	163
B Delays	0	Applicant Delay (APPL)	221
C Delays	0	Total PTA (days)	635

* - 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	07/20/2011		P028	Adjustment of PTA Calculation by PTO	163	0	
86	05/13/2011		MN/=.	Mail Notice of Allowance		0	
85	05/12/2011		IREV	Issue Revision Completed		0	
84	05/12/2011		DVER	Document Verification		0	
83	05/12/2011		N/=.	Notice of Allowance Data Verification Completed		0	
82	05/12/2011		DOCK	Case Docketed to Examiner in GAU		0	
81	05/05/2011		EX.A	Examiner's Amendment Communication		0	
80	05/05/2011		CNTA	Allowability Notice		0	
77	04/25/2011		A...	Response after Non-Final Action		0	
76	03/29/2011		MCPA-AMD	Mail Notice of Informal or Non-Responsive RCE Amendment		0	
75	03/29/2011		CPA-AMD	RCE Amendment Informal or Non-Responsive		0	
74	03/29/2011		FWDX	Date Forwarded to Examiner		0	
71	03/29/2011		ABN9	Disposal for a RCE / CPA / R129		0	
73	03/28/2011		AMPR	RCE- AF Processed		0	
72	03/28/2011	02/28/2011	RCEX	Request for Continued Examination (RCE)		28	63
70	03/28/2011		XT/G	Request for Extension of Time - Granted		0	
69	03/28/2011		BRCE	Workflow - Request for RCE - Begin		0	
68	03/09/2011		MCTAV	Mail Advisory Action (PTOL - 303)		0	
67	03/08/2011		CTAV	Advisory Action (PTOL-303)		0	
65	03/01/2011		FWDX	Date Forwarded to Examiner		0	
66	02/28/2011		C614	New or Additional Drawing Filed		0	
64	02/28/2011		A.NE	Amendment after Final Rejection		0	
63	11/29/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
62	11/26/2010		CTFR	Final Rejection		0	
61	10/06/2010		DOCK	Case Docketed to Examiner in GAU		0	
60	09/28/2010		FWDX	Date Forwarded to Examiner		0	
59	09/24/2010	08/25/2010	A...	Response after Non-Final Action		30	57
58	09/24/2010		XT/G	Request for Extension of Time - Granted		0	
57	05/25/2010	07/01/2008	MCTNF	Mail Non-Final Rejection	693	0.5	
56	05/24/2010		CTNF	Non-Final Rejection		0	
53	01/21/2010		IDSC	Information Disclosure Statement considered		0	
52	01/21/2010		RCAP	Reference capture on IDS		0	
51	01/21/2010		M844	Information Disclosure Statement (IDS) Filed		0	
50	01/21/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
49	04/03/2009		DOCK	Case Docketed to Examiner in GAU		0	
48	03/12/2009		PG-ISSUE	PG-Pub Issue Notification		0	
47	01/07/2009		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
42	12/17/2008		OIPE	Application Dispatched from OIPE		0	
41	12/01/2008		PGPC	Sent to Classification Contractor		0	
40	12/01/2008		FLRCPT.U	Filing Receipt - Updated		0	
39	12/01/2008		PA..	Change in Power of Attorney (May Include Associate POA)		0	
44	10/10/2008		A.PE	Preliminary Amendment		0	
38	10/10/2008		ADDFLFEE	Additional Application Filing Fees		0	
37	10/10/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0	
36	10/10/2008		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems		0	
32	08/13/2008		MPEN	Mail Pre-Exam Notice		0	
31	08/13/2008		FLRCPT.O	Filing Receipt		0	
30	08/13/2008		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0	
25	08/12/2008		C.AD	Correspondence Address Change		0	
24	02/20/2008		W/OA	Pre-Exam Office Action Withdrawn		0	
23	02/20/2008		FLRCPT.O	Filing Receipt		0	
22	02/20/2008		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0	
19	02/15/2008	09/05/2007	ADDFLFEE	Additional Application Filing Fees		163	10
17	12/27/2007		L130	Receipt of all Acknowledgement Letters		0	
16	12/27/2007		L197	Receipt of Acknowledgment Letter		0	
15	12/27/2007		L197	Receipt of Acknowledgment Letter		0	
14	12/27/2007		L197	Receipt of Acknowledgment Letter		0	
13	06/06/2007		ML196	Agency Referral Letter Mailed		0	
12	06/06/2007		ML196	Agency Referral Letter Mailed		0	
11	06/06/2007		ML196	Agency Referral Letter Mailed		0	
18	06/05/2007		W/OA	Pre-Exam Office Action Withdrawn		0	
10	06/05/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0	
7	05/25/2007		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated		0	
6	05/25/2007		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated		0	
5	05/25/2007		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated		0	

4	05/21/2007	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	05/16/2007	SCAN	IFW Scan & PACR Auto Security Review	0
1	05/03/2007	IEXX	Initial Exam Team nn	0
55	05/02/2007	IDSC	Information Disclosure Statement considered	0
28	05/02/2007	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
26	05/02/2007	DRAWING	Drawing Preliminary Amendment	0
2	05/02/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
54	05/01/2007	IDSC	Information Disclosure Statement considered	0
46	05/01/2007	RCAP	Reference capture on IDS	0
45	05/01/2007	M844	Information Disclosure Statement (IDS) Filed	0
43	05/01/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
0.5	05/01/2007	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.
11/799,701	05/01/2007	Sylvia Tatevosian Rostami		6191

7590 01/25/2011

Sylvia T. Rostami
5344 Yolanda Ave.
Tarzana, CA 91356

EXAMINER
RASHID, DAVID

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
01/25/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

January 25, 2011

Sylvia T. Rostami
5344 Yolanda Ave.
Tarzana CA 91356

In re Application of	:	
Rostami, Sylvia Tatevosian	:	**DECISION ON PETITION**
Application No. 11/799,701	:	
Filed: 05/01/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. N/A	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 01, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/24/11

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10799702 Patent No.: 7569407

CofC mailroom date: 03/08/11

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

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Zandra Smith/

SPE Art Unit

2822

UNITED STATES 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
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of :
Badylak, et al. :
Application No. 11/799,724 : ON APPLICATION FOR
Filed: May 2, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 3220-203358

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed August 16, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one hundred and fifty-three (153) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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 accuracy 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
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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED
MAR 15 2012
OFFICE OF PETITIONS

In re Application of	:	
LANDIS, et al	:	
Application No. 11/799,725	:	DECISION ON PETITION
Filed: May 1, 2007	:	TO WITHDRAW
Attorney Docket No. MEDIV2060-5	:	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 14, 2012.

The request is **NOT APPROVED.**

The Office will either change the correspondence address of record to the most current address information provided for a new practitioner or law firm who has filed a proper power of attorney, 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, since the change of correspondence address appears to be that of a new practitioner or law firm who has not filed a proper power of attorney in the Office, the Request to Withdraw filed February 14, 2012, cannot be approved.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GEOFFREY C. LANDIS, ET AL.
C/O MARK EKSE, HAGEN WILKA
& ARCHER LLP
600 S MAIN AVENUE, SUITE 102
SIOUX FALLS SD 57104

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED

APR 16 2012

OFFICE OF PETITIONS

In re Application of	:	
LANDIS, et al	:	
Application No. 11/799,725	:	DECISION ON PETITION
Filed: May 1, 2007	:	TO WITHDRAW
Attorney Docket No. MEDIV2650-5	:	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 29, 2012.

The request is **APPROVED.**

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

The request was signed by Lisa Haile on behalf of the attorneys of record associated with Customer No. 28213.

The attorneys of record associated with Customer No. 28213 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.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MEDIVAS, LLC
P.O. BOX 33419
SAN DIEGO CA 92163

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
11/799,725	05/01/2007	Geoffrey C. Landis	MEDIV2060-5

CONFIRMATION NO. 6275

POWER OF ATTORNEY NOTICE

28213
DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

OC000000053728415

Date Mailed: 04/16/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2012.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Margaret Anderson
106 E. 6th Street, Suite 900
Austin, TX 78701

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of W. Daniel Hillis, et. al. Application No. 11/799,738 Filed: May 1, 2007 Attorney Docket No. QQ1-0154US	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed January 27, 2011.

The request is **MOOT**.

A review of the file record indicates that any previous power of attorney was revoked on January 31, 2011. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is unnecessary.

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

There is an outstanding Office action mailed February 23, 2011, that requires a reply from the applicant. Therefore, this application file is being referred to Technology Center 2600 to await a response.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
601 W Riverside
Suite 1400
Spokane, WA 99201

UNITED STATES 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.

Stevens Law Group
1754 Technology Drive
Suite #226
San Jose CA 95110

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of :
Lee et al. : DECISION ON
Application No. 11/799,762 : PETITION
Filed: May 1, 2007 :
Attorney Docket No. GQLA-00600:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed September 21, 2010.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed November 27, 2009. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. Replies were received on January 27, 2010 and May 27, 2010 (made timely by an accompanying extension of time for response within the third month). However, both were determined by the examiner not to place the application in condition for allowance (See Advisory Actions mailed February 23, 2010 and June 7, 2010 respectively). No proper reply having been received and no further extension of time obtainable, the application became abandoned effective May 28, 2010. A courtesy Notice of Abandonment was mailed on September 17, 2010.

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 2187 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 September 21, 2010.

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
RACKIEWICZ	:	
Application No. 11/799,928	:	DECISION ON PETITION
Filed: May 2, 2007	:	TO WITHDRAW
Attorney Docket No. 12510/87	:	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 1, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the correspondence address provided for future communications from the Office is not that of an assignee who has properly made itself of record pursuant to 37 CFR 3.71. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. 37 CFR 3.71 states:

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

According to a review of USPTO records, there is currently no Statement under 37 CFR 3.73(b) for Home Box Office, in the instant application. In this regard, the Office cannot change the correspondence address to the address indicated on the Request to Withdraw.

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: HOME BOX OFFICE, INC.
1100 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Brill IP Law Office
1108 W Wrightwood Ave
Chicago IL 60614

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
O'Bryne et al.	:	
Application No. 11/799,933	:	RESPONSE TO REQUEST
Filed: May 3, 207	:	
Attorney Docket No. RFD10383P00020US	:	

This is a response to the Correction Request, filed March 15, 2011, to expunge information from the above identified application.

The request is **granted**.

On March 17, 2011, two Issue Fee Payment (PTO-85B) Part B-Fee(s) Transmittals (Part Bs) were filed in the above-identified application. One of the Part Bs was intended for this application and the other was inadvertently filed in this application with the application Serial No. for U.S. Application No. 11/795,889. The removal of the Part B form for U.S. Application No. 11/795,889 from the file of this application, 11/799,933, is now requested.

Upon a showing satisfactory to the Director, information, other than that forming part of the original disclosure, may be expunged from an application. Since the Office can determine the correct application file for which the erroneously filed papers were intended from the other identifying information on the papers, the papers will be removed as requested.

In a paper file, the unintentionally submitted document could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. However, this is not the practice for electronic documents, for which the corresponding action is to close the electronic copy of 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 unintentionally filed Part B form for U.S. Application No. 11/795,889 from the file of this application, 11/799,933, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

In regard to the requested expungement of the Correction Request, that request and this response will remain a part of the official record to preserve a clear record of the proceedings in this application.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
NOV 01 2011
OFFICE OF PETITIONS

SMITH, GABRELL & RUSSELL
SUITE 3100, PROMENADE I
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

In re Application of	:	
ISOBE	:	
Application No. 11/799,935	:	NOTICE
Filed: May 3, 2007	:	
Attorney Docket No. 048024.003	:	

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Application of :
Yanina Rozenberg et al. :
Application No. 11/800,048 : DECISION ON PETITION
Filed: May 2, 2007 :
Attorney Docket No. **INTM/007 CON2** :

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Matthew C. Lee appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Matthew C. Lee desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Matthew C. Lee, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 3, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 4, 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 a Request for Continued Examination (RCE) and fee of $465, and the submission required by 37 CFR 1.114; (2) the petition fee of $930; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1632 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110822

DATE : August 22, 2011

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,737,285

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

DATE : July 22 2010

TO SPE OF : ART UNIT 1626
SUBJECT : Request for Certificate of Correction for Appl. No/11/800085 /pat. /7737285

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: _____

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CASIMIR JONES, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Patent No. 7,960,372 :
Issued: June 14, 2011 :
Application No. 11/800,220 : ON PETITION
Filed: May 4, 2007 :
Attorney Docket No. UM-14530 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 29, 2011.

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Fredrik Brannstrom et al.	:	
Application No. 11/800,357	:	DECISION ON PETITION
Filed: May 4, 2007	:	TO WITHDRAW
Attorney Docket No. 63832-8022.US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2010.

The request is **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 Jordan M. Becker on behalf of all attorneys/agents of record. All attorneys/agents of record 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: Quantenna Communications, Inc.
3450 W. Warren Avenue
Fremont, CA 94535

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
11/800,357	05/04/2007	Fredrik Brannstrom	63832-8022.US01

CONFIRMATION NO. 8809

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000044607034

Date Mailed: 11/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2010.

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

/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

Sheppard, Mullin, Richter & Hampton, LLP
390 Lytton Avenue
Palo Alto, CA 94301

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Fredrik Brannstrom et al.	:	
Application No. 11/800,357	:	DECISION ON PETITION
Filed: May 4, 2007	:	TO WITHDRAW
Attorney Docket No. 25DX-159238	:	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 21, 2011.

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 Sheppard, Mullin, Richter & Hampton, LLP and all attorneys/agents of record has been revoked by the assignee of the patent application on October 25, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: IP Creators
P.O. Box 2789
Cupertino, CA 95015

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/800,357	05/04/2007	Fredrik Brannstrom	25DX-159238

CONFIRMATION NO. 8809

POWER OF ATTORNEY NOTICE

69849
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
390 Lytton Avenue
Palo Alto, CA 94301

OC000000050669974

Date Mailed: 10/28/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2011.

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

/kainabinet/

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

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Fredrik Brannstrom et al.	:	
Application No. 11/800,378	:	DECISION ON PETITION
Filed: May 4, 2007	:	TO WITHDRAW
Attorney Docket No. 63832-8003.US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2010.

The request is **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 Jordan M. Becker on behalf of all attorneys/agents of record. All attorneys/agents of record 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: Quantenna Communications, Inc.
3450 W. Warren Avenue
Fremont, CA 94535

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/800,378	05/04/2007	Fredrik Brannstrom	63832-8003.US01

CONFIRMATION NO. 8814

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000044607099

Date Mailed: 11/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2010.

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

/kainabinet/

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

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OFFICE OF PETITIONS

Sheppard, Mullin, Richter & Hampton, LLP
390 Lytton Avenue
Palo Alto, CA 94301

In re Application of	:	
Fredrik Brannstrom	:	
Application No. 11/800,378	:	DECISION ON PETITION
Filed: May 4, 2007	:	TO WITHDRAW
Attorney Docket No. 25DX-159014	:	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 21, 2011.

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 Sheppard, Mullin, Richter & Hampton, LLP and all attorneys/agents of record has been revoked by the assignee of the patent application on October 25, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: IP Creators
P.O. Box 2789
Cupertino, CA 95015

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/800,378	05/04/2007	Fredrik Brannstrom	25DX-159014

CONFIRMATION NO. 8814

POWER OF ATTORNEY NOTICE

69849
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
379 Lytton Avenue
Palo Alto, CA 94301

OC000000050777496

Date Mailed: 11/03/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2011.

- 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.

/kainabinet/

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

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WORKMAN NYDEGGER C/O SANDIA N.L.
60 EAST SOUTH TEMPLE, 1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

MAILED

AUG 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Jean-Philippe FEVE, et *al.*	:	
Application No. 11/800,383	:	DECISION GRANTING PETITION
Filed: May 4, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **17902:1.1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 5, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3663 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
JUL 08 2011
OFFICE OF PETITIONS

Wayne Jones
Law Offices of Wayne Jones
748 Christine Drive
Palo Alto CA 94303

In re Application of	:	
Andreas HIEKE	:	ON PETITION
Application No. 11/800,458	:	
Filed: May 4, 2007	:	
Atty. Docket No.: 102064.00002		

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

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed January 28, 2010, which set a statutory period for reply of three (3) months. The application became abandoned April 29, 2010. A Notice of Abandonment was mailed May 14, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice of Allowance and Fee(s) Due, (2) a petition fee of $810, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

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

There is not indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Office of Data Management for further processing.

Anthony Knight
Director
Office of Petitions

cc: Dusty S. Vogelpohl
Jones IP Group
2225 E. Bayshore Road
Suite 205
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ExxonMobil Research and Engineering Company
P.O. Box 900
Annandale, NJ 08801-0900

MAILED
JUN 01 2011
OFFICE OF PETITIONS

In re Application of Poirier et al. :
Application No. 11/800,602 :
Filing Date: May 7, 2007 :
Attorney Docket No. P2006J036-US2 :

Decision on Petition

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 26, 2010, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 27, 2011. A Notice of Abandonment was mailed on March 15, 2011.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied a reply in the form of a request for continued examination and amendment, the required petition fee of $1,620, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

The petition includes payment of $1,110 for a three-month extension of time. However, payment for an extension of time is unnecessary for relief to be granted under 37 CFR 1.137(b). *See* MPEP 711.03(c)(II)(A). In addition, the Office cannot accept an extension of time fee submitted after the expiration of the maximum extendable time period for reply. Therefore, the $1,110 extension of time fee submitted with the petition has been credited back to Deposit Account No. 05-1330.

Technology Center Art Unit 1771 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/800,607	05/07/2007	James Douglas Harper	0050.2068-022	1051

7590 04/12/2011
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER
JUNG, UNSU

ART UNIT	PAPER NUMBER
3768	

MAIL DATE	DELIVERY MODE
04/12/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

April 12, 2011

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of	:	
Harper, James Douglas et al	:	**DECISION ON PETITION**
Application No. 11/800,607	:	
Filed: 05/07/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 0050.2068-022	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 07, 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

MAILED
APR 13 2011
OFFICE OF PETITIONS

LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

In re Patent No. 7,553,357	:	
Issue Date: June 30, 2009	:	
Application No. 11/800,659	:	DECISION ON PETITION
Filed: May 7, 2007	:	
Attorney Docket No. U 016829-8	:	

This is a decision on the Renewed Petition For Correction Of Assignee's Name, filed November 17, 2010, which is being treated as 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 urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges, 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:

"IKO Epson Corporation"

to:

--SEIKO Epson Corporation--

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.

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. 7,553,357.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Ladas & Parry LLP
26 West 61st Street
New York, N.Y. 10023

UNITED STATES 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 12 2010

OFFICE OF PETITIONS

Mauriel Kapouytian & Treffert LLP
151 1st Avenue
#23
New York NY 10003

In re Application of	:	
GONEN, Rica et al.	:	
Application No. 11/800,667	:	DECISION ON PETITION
Filed: May 04, 2007	:	TO WITHDRAW
Attorney Docket No. **10033-2005600**	:	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 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 no change of address was provided.

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
DEC 05 2011
OFFICE OF PETITIONS

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

In re Application of	:	
Manuel A. Soto et al.	:	
Application No. 11/800,690	:	DECISION ON PETITION
Filed: May 7, 2007	:	
Attorney Docket No. 1281-47U (F-TP-00179)	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, 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 application became abandoned on October 8, 2010. A Notice of Abandonment was mailed on January 19, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $930, (2) the petition fee of $1,860, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,270 extension of time fee submitted with the petition on November 18, 2011 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received November 18, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/13/2011 **Paper No.:** ——

TO SPE OF : ART UNIT 1777

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/800746 Patent No.: 7883898B2

CofC mailroom date: 4/7/11

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

SPE — Art Unit 1777

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Bruce W. HELLER	:	
Application No. 11/800,759	:	DECISION ON PETITION
Filed: May 08, 2007	:	
Attorney Docket No. **4520P3203**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 03, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 26, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay. Accordingly, the reply the restriction requirement of January 26, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center AU 3711 for appropriate action on the concurrently filed election.

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

KIRSCHSTEIN ISRAEL SCHIFFMILLER & PIERONI, P.C.
425 FIFTH AVENUE
5TH FLOOR
NEW YORK, NY 10016-2223

MAILED
MAR 15 2011
OFFICE OF PETITIONS

In re Application of :
Yasuo Taketsugu et al :
Application No. 11/800,818 : ON PETITION
Filed: May 8, 2007 :
Attorney Docket No. HORIZON-48 US/MINORI :

This is a decision on the petition filed February 7, 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 October 20, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 21, 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
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Paper No.

SMARTDRIVE SYSTEMS, INC.
P.O. BOX 757
LA JOLLA CA 92038

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Plante et al.	:	
Application No. 11/800,876	:	DECISION ON PETITION
Filed: May 8, 2007	:	PURSUANT TO
Attorney Docket No. 266.15	:	37 C.F.R. § 1.137(B)
Title: DISTRIBUTED VEHICLE	:	
EVENT RECORDER SYSTEMS	:	
HAVING A PORTABLE MEMORY	:	
DATA TRANSFER SYSTEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 20, 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 in a timely manner to a non-final Office action, mailed December 1, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 2, 2011. A notice of abandonment was mailed on June 6, 2011.

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

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

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

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

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on September 20, 2011 can be processed in due course.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning this 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
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Alexandria, VA 22313-1450
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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Jay Chun	:	
Application No. 11/800,885	:	DECISION ON PETITION
Filed: May 7, 2007		TO WITHDRAW FROM RECORD
Attorney Docket No. 89222.3	:	
	:	

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 14, 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 Fariba Sirjani on behalf of himself. Accordingly, Fariba Sirjani associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

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

Currently, there is an outstanding Office action mailed January 19, 2011 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Fariba Sirjani
925 Delaware Avenue, Apt 9C
Buffalo, NY 14209

UNITED STATES 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 01 2011
OFFICE OF PETITIONS

Laurence C. Begin
510 Highland Avenue
PMB 403
Milford MI 48381

In re Application of	:	
Ganta et al.	:	
Application No. 11/800924	:	
Filing or 371(c) Date: 05/07/2007	:	
Attorney Docket Number:	:	
5702-00183	:	ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Unavoidably Abandoned Under 37 CFR 1.137(a)", filed April 21, 2011. The petition is properly treated as a petition to withdraw holding of abandonment based upon non-receipt of an Office action under 37 C.F.R. § 1.181 (No Fee Required).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed July 2, 2010. The Notice of Allowance set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 3, 2010. A Notice of Abandonment was mailed October 15, 2010.

With the present petition, Applicant has demonstrated non-receipt of the Notice of Allowance by a preponderance of the evidence. Applicant ahs also filed the issue and publication fees.

In view of the foregoing, the holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to the Publishing Division for processing into a patent in the normal course of business.

A copy of the Notice of Allowance and Issue Fee Due is enclosed herewith.

The petition fee, $540.00, has been refunded to Applicant's deposit account.

Telephone inquiries concerning this Decision only 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.: _____

DATE : 1/19/11

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 11800953 Patent No.: 7834089

CofC mailroom date: 12/15/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: The Examiner's amendment was to resolve the indefiniteness of current claim 16 in that said claim contains multiple claim dependency to two different features. The certificates of correction request will bring the indefiniteness back to the claim.

SPE David Wu AU 1762

UNITED STATES 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 : 02/03/11

Patent No. : 7834089 B2
Patent Issued : 11/16/10
Docket No. : **AD7438 US NA**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 12/15/10; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/19/11

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 11800953 Patent No.: 7834089

CofC mailroom date: 12/15/10

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: The Examiner's amendment was to resolve the indefiniteness of current claim 16 in that said claim contains multiple claim dependency to two different features. The certificates of correction request will bring the indefiniteness back to the claim.

SPE David Wu AU 1762

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,914,789

Issue Date: March 29, 2011

Application No. 11/801,040

Filed: May 7, 2007

Attorney Docket No. **027782-013414US**

ON PETITION

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 correct 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 matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction filed May 13, 2011.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Karen B. Dow
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

[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
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MAILED

APR 11 2011

OFFICE OF PETITIONS

MR. GREG TOUSANT
P.O. BOX 81
HAWTHORNE, CA 90251

In re Application of
Greg Tousant
Application No. 11/801,052
Filed: May 8, 2007
Attorney Docket No. 650105.18085

ON PETITION

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

The application became abandoned for failure to file a reply to the non-final Office action mailed on March 10, 2010. A Notice of Abandonment was mailed on September 14, 2010.

The petition is **dismissed**.

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

A non-final Office action was mailed March 10, 2010, which required petitioner to file a proper response to continue prosecution in the above application. To date, no response has been received. Therefore revival of the instant application cannot occur until a proper reply has been received[2]. A courtesy copy of the Office action is 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) is 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.

---

[1] Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

[2] Petitioner should note that filing the required the missing item should not be construed as meaning that the petition will be granted under the provisions of 37 CFR 1.137(b).

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Non-final Office action mailed March 10, 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.
11/801,052	05/08/2007	Greg Tousant	650105.18085	1617

7590 03/10/2010
MR GREG TOUSANT
PO BOX 81
HAWTHORNE, CA 90251

EXAMINER
HALE, GLORIA M

ART UNIT	PAPER NUMBER
3765	

MAIL DATE	DELIVERY MODE
03/10/2010	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	11/801,052	TOUSANT, GREG	
	Examiner	Art Unit	
	Gloria Hale	3765	

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

Period for Reply

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

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

Status

1)☐ Responsive to communication(s) filed on _____.

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

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

Disposition of Claims

4)☒ Claim(s) 1-9 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) 1-9 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

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

Application Papers

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

10)☒ The drawing(s) filed on 7-6-07 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

Claim Rejections - 35 USC § 102

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

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

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Slimmon (US 4698854).

Slimmon discloses a cover 7 that covers a portion of a person comprising a towel portion 7 sized to cover at least a first portion(waist) of a person with first and second faces and two opposite sides.(See figures and col. 3, line 7-24 ,52-55)The cover 7 of Slimmon also includes at least one strap (10a,10b)attached to the towel portion and adjacent the sides and having strap ends extending distally from the towel portion. The strap ends being sized to extend around the person(at their waist, col. 3, line 15) to connect the ends together as claimed. The first and second faces of the towel portion are formed of different materials in that one side includes a print or indicia thereon and is considered to be a different material as broadly claimed as would any printed fabric and non-printed fabric(See col. 9-12 with the sport co. name etc).. Slimmon also includes a pocket means 13 as seen in figure 3 and 4 on the cover to hold items. The portion of the towel that is the outward seen folded portion- not numbered in figure 4 that includes the pocket 13 is the extension portion since that portion extends outwardly as seen in figure 4. In figure 2 the strap 1a and 3 includes a wider portion

inward of the strap ends and which is the end opposite of the connecting strap ends and the part nearest to the towel portion itself. The strap can be considered to be two straps or a single strap that extends along the top of the towel edge and includes a fastening means 5 that adheres the towel to the strap when the towel is folded thereby releasably holding the strap to the cover portion as broadly claimed and as seen in figures 4, 5d,5e and 6).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Mon.-Thurs.,..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. 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.

/Gloria Hale/
Primary Examiner, Art Unit 3765

***

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MR. GREG TOUSANT
P.O. BOX 81
HAWTHORNE, CA 90251

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of :
Greg Tousant :
Application No. 11/801,052 : ON PETITION
Filed: May 8, 2007 :
Attorney Docket No. 650105.18085 :

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

In response to the decision mailed April 11, 2011, petitioner submits the present renewed petition along with a response to the Office action mailed March 10, 2010.

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

This application file is being referred to Technology Center Art Unit 3765 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Convergent Law Group LLP
P.O. BOX 1329
MOUNTAIN VIEW CA 94042

MAILED
NOV 23 2011
OFFICE OF PETITIONS

In re Application of
Steven G. Reed et al.
Application No. 11/801,112
Filed: May 7, 2007
Attorney Docket No.
GSK006C15/CRX411C15

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2011. Accordingly, the date of abandonment of this application is September 21, 2011. A Notice of Abandonment was mailed on October 6, 2011.

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

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 the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Dianna L. DeVore
475 N. Whisman Road
Suite 400
Mountain View, CA 94043

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED
DEC 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Michael Ritter et al.	:	
Application No. 11/801,116	:	ON PETITION
Filed: May 7, 2007	:	
Attorney Docket No.: TRMB- 1819	:	

This is a decision on the petition under 37 CFR 1.182, filed November 29, 2011, to change the order of the names of the inventors.

The petition is **GRANTED**.

The instant petition has been submitted with an updated Application Data Sheet.

The order of the names of the inventors has been changed as follows:

(1) Michael Ritter
(2) James Jankey

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to Technology Center 2164 for further examination in due course.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/801,116	05/07/2007	2164	1680	TRMB-1819	21	3

CONFIRMATION NO. 2939

CORRECTED FILING RECEIPT

70409
TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

OC000000051398393

Date Mailed: 12/09/2011

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)

Michael Ritter, Denver, CO;
James Janky, Los Altos, CA;

Power of Attorney: The patent practitioners associated with Customer Number 70409

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/850,106 10/05/2006

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: 06/07/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/801,116**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for delivering tailored asset information to a device

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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MAILED
APR 25 2011
OFFICE OF PETITIONS

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

In re Application of	:	
Ganesh Sahai, et al	:	
Application No. 11/801,242	:	DECISION ON PETITION
Filed: May 8, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6067-22000	:	

This is a decision on the petition, filed March 9, 2011 under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 8, 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 accompanies this decision on petition.

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

This application is being referred to Technology Center AU 2171 for further processing.

Irvin Dingle
Petition 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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/801,242	05/08/2007	Ganesh Sahai	6067-22000

CONFIRMATION NO. 1964

NONPUBLICATION RESCISSION LETTER

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

OC000000047310854

Date Mailed: 04/22/2011

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 07/28/2011.

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".

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

MAILED
MAR 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Eric Li, et. al.	:	
Application No. 11/801,309	:	DECISION ON PETITION
Filed: May 9, 2007	:	
Attorney Docket No. 319815.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

The application became abandoned for failure to file a timely reply to the Notice of Allowance and Fee(s) Due (Notice) mailed on 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 $1,510 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Russell S. Krajec
1635 Foxtrail Drive - Suite 321
Loveland, CO 80537

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

JAN 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Fraser et al.	:	
Application No. 11/801,335	:	ON APPLICATION FOR
Filed: 05/08/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
035451-0299 (3731.PALM.US	:	

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 November 2, 2010. Applicants submit that the patent term adjustment to be indicated on the patent should be increased by 302 days from 660 days to 962 days. Applicants request this correction on the basis that the patent will issue more than three years after the date the application was filed.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

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

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

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Stephen R. Carter, et al.	:	
Application No. 11/801,375	:	DECISION ON PETITION
Filed: May 9, 2007	:	
Attorney Docket No. 1363-035	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 3, 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 4, 2010. The Notice of Abandonment was mailed February 16, 2011.

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 3684 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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

MAILED
NOV 02 2011
OFFICE OF PETITIONS

In re Application of :
Gael MACE et al. : ON PETITION
Application No. 11/801,376 :
Filed: May 9, 2007 :
Atty. Docket No.: PF060045

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

The petition is **GRANTED.**

The application became abandoned for failure to respond in a timely manner to the non-final Office action mailed July 7, 2010 (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 October 8, 2011. A Notice of Abandonment was mailed January 20, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Office action mailed July 7, 2010, (2) a petition fee of $1860, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

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

The application will be referred to Technology Center Art Unit 2492 for further consideration of the filed Response.

Robert DeWitty
Petitions Attorney
Office of Petitions

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Patent No. : **7717044**
Ser. No. : **11/801396**
Inventor(s) : **HATTON, ANTHONY JAMES**
Issued : **05/18/2010**
Title : **SPLIT-LEVEL BAR COUNTER**
Docket No. : **053083/328696**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

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

OL

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JUL 20 2011
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

In re Patent No. 7,717,044	:	
Issue Date: May 18, 2010	:	
Application No. 11/801,396	:	ON PETITION
Filed: May 9, 2007	:	
Attorney Docket No. 053083/328696	:	

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

The request is **GRANTED**.

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

MAILED
MAR 15 2012
OFFICE OF PETITIONS

In re Application of	:	
GOMURASHVILI, et al	:	
Application No. 11/801,481	:	DECISION ON PETITION
Filed: May 9, 2007	:	TO WITHDRAW
Attorney Docket No. MEDIV3040-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2012.

The request is **NOT APPROVED.**

The Office will either change the correspondence address of record to the most current address information provided for a new practitioner or law firm who has filed a proper power of attorney, 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, since the change of correspondence address appears to be that of a new practitioner or law firm who has not filed a proper power of attorney in the Office, the Request to Withdraw filed February 14, 2012, cannot be approved.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ZAZA D. GOMURASHVILI, ET AL.
C/O MARK EKSE, HAGEN WILKA
& ARCHER LLP
600 S MAIN AVENUE, SUITE 102
SIOUX FALLS SD 57104

UNITED STATES 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 16 2011

OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of	:	
KALMANN	:	
Application No. 11/801,489	:	DECISION ON PETITION
Filed: May 10, 2007	:	TO WITHDRAW
Attorney Docket No. 65640(307227)	:	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 24, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Joshua L. Jones behalf of the attorneys of record associated with Customer No. 21874.

The attorneys of record associated with Customer No. 21874 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 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: DEEP VEIN MEDICAL, INC.
222 BERKLEY STREET
SUITE 1650
BOSTON MA 02116

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/801,489	05/10/2007	Menno Kalmann	65640(307227)

CONFIRMATION NO. 4360

POWER OF ATTORNEY NOTICE

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

OC000000047624331

Date Mailed: 05/12/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/24/2011.

- 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.

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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March 29, 2011

Patent No. : 7,894,158 B2
Appl. No. : 11/801,502
Inventor(s) : Kazuyoshi Hanada, et al.
Issued : February 22, 2011
Title : **MAGNETIC DISK APPARATUS**
Docket No. : **HGST .P026**

Re: Request for Certificate of Correction

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

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

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

All petitions for correction of Assignees' names under rule 3.81(b) should:

(A) state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

(B) include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); (unless fee (currently $100) was previously paid for consideration of request for certificate of correction)

(C) include the processing fee set forth in 37 CFR 1.17(i).

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314
(Hours of operation are 8:30 a.m. to midnight, Eastern Standard Time, Monday through Friday)

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Mahamedi Paradice Kreisman LLP
550 Winchester Boulevard
Suite 605
San Jose CA 95128

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Richards Patent Law P.C.
3501 N. Southport Ave., Suite 493
Chicago IL 60657

MAILED
AUG 2 6 2010
OFFICE OF PETITIONS

In re Application of	:	
Marek Kwiatkowski	:	
Application No. 11/801,520	:	DECISION ON PETITION
Filed: May 10, 2007	:	
Attorney Docket No. 1044-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 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 5, 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 6, 2009. A Notice of Abandonment was mailed on February 2, 2010.

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

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

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

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the reply received June 28, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

MAR 31 2011
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Delphi Technologies, Inc.
M/C 480-410-202
P.O. Box 5052
Troy MI 48007

In re Application of:
WALKER, GLENN A. et al
Application Serial No.: 11/801,530
Filed: May 10, 2007
For: **SYSTEM AND METHOD OF TRANSMITTING AND RECEIVING SATELLITE DIGITAL RADIO SIGNALS OVER AN ODD NUMBER OF FREQUENCY SLOTS**

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed May 19, 2010 to consider the attached Amendment and Reply that was originally filed on April 29, 2010 in response to the Office Action mailed February 01, 2010, without charging Applicants an extension fee.

The Petition is **Denied**.

Petitioner asserts, "On April 29, 2010, Applicants' undersigned Representative electronically filed an Amendment and Reply with the United States Patent and Trademark Office. After filing the Amendment and Reply the electronic acknowledgment receipt failed to generate. Applicants' undersigned Representative's assistant, Karen Kinyon, called the Office inquiring about the submission of the response and the electronic acknowledgment receipt. An agent confirmed the response was filed and received on April 29, 2010, and that the electronic acknowledgment receipt should be available on PAIR within four hours."

Petitioner goes on to assert numerous communications with the office followed from April 30, 2010 up to on or about May 17, 2010 on the status of the Amendment and Reply. At which point it was suggested to resubmit the Amendment and Reply originally filed April 29, 2010.

37 CFR § 1.8 Certificate of mailing or transmission states:
(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.
(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:
(i) Relative to Patents and Patent Applications —
(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under § 1.53(d);
(B) [Reserved]
(C) Papers filed in contested cases before the Board of Patent Appeals and Interferences, which are governed by § 41.106 (f) of this title; (D) The filing of an international application for patent;
(E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;
(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in § 1.495(b).
(ii) [Reserved]
(iii) Relative to Disciplinary Proceedings —
(A) Correspondence filed in connection with a disciplinary proceeding under part 11 of this chapter.
(B) [Reserved]
(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:
(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an

acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.
(c) The Office may require additional evidence to determine if the correspondence was timely filed.

A review of the file history reveals on April 29, 2010 only a replacement sheet and an annotated sheet of drawings were filed electronically. There is no evidence of record to indicate an Amendment and Reply were also filed.

In accordance with 37 CFR 1.8(a)(1), Correspondence will be considered timely filed if correspondence is transmitted prior to expiration of set period of time by being transmitted via Office electronic filing system in accordance with 1.6(a)(4) and correspondence includes a certificate for each piece of correspondence stating the date of the transmission.

In accordance with 37 CFR 1.8(b), In the event that correspondence is considered timely filed by being transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time, the correspondence will be considered timely if the party who forwarded the correspondence 1) informs the office promptly; 2) Supplies an additional copy of the transmitted correspondence and certificate; 3) Include a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely submission.

The Amendment and Reply attached with the petition includes a date at the conclusion on page 19 of May 19, 2010. This Amendment and Reply does not appear to be a copy of the Amendment and Reply transmitted on April 29, 2010. Nor is there a certificate of transmission in accordance with 37 CFR 1.8(a)(1) associated with this correspondence. Furthermore there is no statement that attests on a personal basis to the previous timely transmitted correspondence.

Therefore, in accordance with 37 CFR 1.136(a), a one month extension of time is necessary for the timely filing of the applicant's response received on May 18, 2010.

The petition to not charge the one month extension of time fee is **DENIED.**

The application file will be forwarded to the examiner for appropriate action in due course.

John LeGuyader, Director
Technology Center 2600
Communications

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MAILED
FEB 09 2012
OFFICE OF PETITIONS

SOFER & HAROUN LLP.
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

In re Application of
Arnaud Allais, et al.
Application No. 11/801,583
Filed: May 10, 2007
Attorney Docket No: 979-310

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 18, 2009. A Notice of Abandonment was mailed on April 14, 2009. On January 10, 2012, the present petition was filed.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740 and the publication fee of $300, (2) the petition fee of $1,860; and (3) 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
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JOHN RYZNIC
FLORIDA TURBINE TECHNOLOGIES, INC.
1701 MILITARY TRAIL, SUITE 110
JUPITER FL 33458-7887

MAILED
NOV 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Wesley D. Brown	:	
Application No. 11/801,594	:	DECISION ON PETITION
Filed: May 10, 2007	:	
Attorney Docket No. FTT-393R	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 10, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 11, 2010. A Notice of Abandonment was mailed October 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (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 Technology Center AU 3745 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

MAILED

JUL 14 2011

OFFICE OF PETITIONS

In re application of :
Robert Frost :
Application No. 11/801,628 :
Filed: May 10, 2007 :
Attorney Docket No. 5000.P0137US :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on May 4, 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 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) 272-3208.

/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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/801,686	05/10/2007	Jeremy Green	VPI/05-198 US	2158

27916 7590 12/02/2010
VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE, MA 02139-4242

EXAMINER
MORRIS, PATRICIA L

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
12/02/2010	ELECTRONIC

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

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

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

usptopatents@vrtx.com
andrew_jackson@vrtx.com
susan_batty-gunn@vrtx.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 0 2 2010

Daniel A. Person
c/o Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242

In re Application of: Jeremy Green et al	:	
Serial No: 11/801,686	:	DECISION
Filed: Ma 10, 2007	:	ON
Attorney Docket No: VPI/05-198 US	:	PETITION
Title: Selective Inhibitors of ROCK Protein Kinase and Uses Thereof	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on November 9, 2010.

BACKGROUND

Applicant filed a claim set on May 10, 2007 which was subject to a restriction requirement on June 16, 2010.

In the restriction requirement of June 16, 2010, the examiner presented eight groups.

Group I to VI are directed to various compounds.
Group VII, Claims 44, 46 and 47, drawn to multiple uses, classified in classes 424 and 514, various subclasses.
Group VIII, Claims 45 and 51, drawn to compositions and uses containing an additional active ingredient, classified in classes 424 and 514, various subclasses.

No claims are identified in Groups I to VI. Claims 40-42 are not grouped because they drawn to non-statutory subject matter since they are drafted in terms of use. The examiner stated Inventions I-VI are drawn to patentably distinct compounds. A further election of a species within the elected group is also required. Examiner indicated that claims 1-22, 39 and 43 will be examined to the extent readable on the elected compounds.

On June 16, 2010, Applicants elected the compounds of Group VI with traverse and elected compound **72** as the species. Applicants traversed the restriction stating that the examiner was making a restriction requirement based on the substituents (-T-R^5) of a well-defined core structure and that there is no search burden. Applicants further suggested alternative restriction groups that better relate to the compounds and methods of the invention.

On August 11, 2010, examiner further narrowed the scope of elected Group VI to the elected species, compound **72**, and other closely related compounds wherein R^5 is defined as a piperidine. The examiner found these compounds obvious over prior art and therefore unpatentable and thus the scope of the search was not expanded.

On November 9, 2010, the present petition was filed requesting reconsideration of the restriction.

DISCUSSION

Prosecution history and petition have been carefully reviewed. Applicants' statement "The search burden imposed upon the examiner the genus of compounds recited by claim 1 as amended in the July 16, 2010 reply is reasonable. Applicants urged that a search of the entire claimed subject matter has been conducted by the European Patent Office and only one reference of particular interest and two other of general interest were cited in the resulting International Search Report. There is no relationship between instant application and the PCT on record. There is no detailed search strategy provided. Thus the search report is not relevant for consideration. Applicants urged that the examiner appears to be making a restriction requirement for each species encompassed by the elected invention. Applicants cite 37 CRR 1.141(a) for support.

Applicants' comment regarding the enabling rejection is noted. Rejection is appealable matter for the Board and thus the argument on that issue has not been considered. The review show that examiner failed to establish as to how the species/subgenus are distinct and independent.

DECISION

The petition is **GRANTED** for the reasons set forth above. Examiner is encouraged to use linking claim practice and may wish to consider applicants' suggested alternative restriction in the response filed July 16, 2010

This application is being forwarded to examiner for further action consistent with the decision after mailing of this decision.

Should there be any questions about this decision, please contact Supervisory Patent Examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number. 571-273-8300.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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KALIKO & ASSOCIATES, L.L.C.
400-B LAKE STREET
RAMSEY, NJ 07446

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Gallaher et al.	:	DECISION ON PETITION
Application No. 11/801,708	:	TO WITHDRAW
Filed: May 10, 2007	:	FROM RECORD
Attorney Docket No. SECUREVOTE	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 8, 2010.

The request is **APPROVED**.

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

The request was signed by Scott H. Kaliko, on behalf of all practitioners.

Scott H. Kaliko, has been withdrawn as attorney of 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 is an outstanding Office action mailed June 23, 2010, that requires 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

cc: DAVID WESLEY GALLAHER
1250 REDTAIL RIDGE ROAD
IDAHO SPRINGS, CO 80452

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/801,708	05/10/2007	David Wesley Gallaher	SECUREVOTE

CONFIRMATION NO. 4519

POWER OF ATTORNEY NOTICE

39550
KALIKO & ASSOCIATES, L.L.C.
400-B Lake Street
RAMSEY, NJ 07446

OC000000043204667

Date Mailed: 08/25/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/08/2010.

- 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.

/atkelley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW Aug-10

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AUG 13 2010
OFFICE OF PETITIONS

NOVAK DRUCE AND QUIGG, LLP (THULE)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

In re Application of
Larry Jones et al.
Application No. 11/801,751
Filed: May 10, 2007
Atty Docket No. 8293.004.REUS00

DECISION ON PETITION

This is a decision on the petition filed July 6, 2010 and supplemented on August 2, 2010, which is being treated as a renewed petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where it require that a supplemental declaration be executed by a named inventor.[1]

The petition is **GRANTED**.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.63

The Office received two declarations on August 2, 2010. Since the signed declaration does not mention the nonsigning inventor's name, the Office will combine the declarations.

Petitioner has provided a proper oath or declaration executed by the available joint inventor.

In view of the efforts to locate and obtain the signature of Neil Ottavi on the substitute declaration in compliance with 37 CFR §§ 1.67 and 1.63, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Neil Ottavi on the substitute declaration filed on October 26, 2009 and supplemented on August 2, 2010.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

CONCLUSION

1. The petition is granted.

2. Jurisdiction over the application is being forwarded to Technology Center Art Unit 3726 for further processing.

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

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

/dab/
David Bucci
Petitions Examiner
Office of Petition

UNITED STATES 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 Feb-11

NOVAK DRUCE AND QUIGG, LLP (THULE)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOSTON, TX 77002

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of :
Larry K. Jones et al. : DECISION ON PETITION
Application No. 11/801,751 :
Filed: May 10, 2007 :
Atty Docket No. 8293.004.REUS00 :
:

This is a decision on the petition under 37 CFR 1.47(a) filed November 22, 2010, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by a named inventor.[1]

The petition under 37 CFR 1.183 is **dismissed.**

BACKGROUND

1. On May 10, 2007, application No. 11/801,751 was filed for reissue of U.S. Patent No. 6,889,417.

2. On September 21, 2010 an instruction letter, a copy of U.S. Patent 6,889,417, the Reissue Application Declaration for Reissue Application 11/801,741, a copy of Preliminary Amendment, a copy of Supplemental Preliminary Amendment, and a copy of the Secondary Supplemental Preliminary Amendment were sent to Neil Ottavi's last known mailing address.

3. On October 1, 2010 PS Form 3811 with Article Number 7008 1140 0002 1638 7327 signed by Neil Ottavi, confirming that the package was delivered to Neil Ottavi's last known mailing address on September 28, 2010.

[1] Once an application containing a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

4. On October 22, 2010 and October 29, 2010, Guillermo Munoz, Patent Agent, telephone Neil Ottavi and left voice mail messages with his contact telephone number.

The instant petition requires,

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),

(2) a proper oath or Declaration executed by the available joint inventor(s),

(3) the fee of $200 as specified in 37 CFR § 1.17(g), and

(4) the last known address of the omitted inventor(s).

Applicant lacks items (2) set forth above.

As to item (2), the declaration is defective since it is not in compliance with 37 CFR 1.63. Since individual declarations were executed, they must be submitted as individual declarations rather than combined into one declaration. MPEP 201.03 B states,

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. 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. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

As authorized, the $200 petition fee is being charged to petitioner Deposit Account No. 14-1437.

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 Irvin Dingle at (571) 272-3210.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Apr-11

MAILED

APR 08 2011

OFFICE OF PETITIONS

NOVAK DRUCE AND QUIGG LLP (THULE)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

In re Application of	:	
Larry K. Jones et al.	:	DECISION ON PETITION
Application No. 11/801,751	:	
Filed: May 10, 2007	:	
Atty Docket No. 8293.004.REUS00	:	
	:	

This is a decision on the petition filed February 28, 2011, which is being treated as a renewed petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where it require that a supplemental declaration be executed by a named inventor.[1]

The petition is **GRANTED**.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.63

Petitioner has provided a proper oath or declaration executed by the available joint inventors.

In view of the efforts to locate and obtain the signature of Neil Ottavi on the substitute declaration in compliance with 37 CFR §§ 1.67 and 1.63, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Neil Ottavi on the substitute declaration filed on February 28, 2011.

CONCLUSION

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

1. The petition is granted.

2. The application is being forwarded to Technology Center Art Unit 3726 for further processing.

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

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

/dab/
David Bucci
Petitions Examiner
Office of Petition

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.
11/801,840	05/12/2007	Les W. Washington		5802

7590 01/19/2011

Les W. Washington,
President/Chief Executive Officer
Telechem Corporation
6477 D. Peachtree Industrial
Atlanta, GA 30360

EXAMINER
CHAUDHRY, SAEED T

ART UNIT	PAPER NUMBER
1711	

MAIL DATE	DELIVERY MODE
01/19/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

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

January 19, 2011

Les W. Washington,
President/Chief Executive Officer
Telechem Corporation
6477 D. Peachtree Industrial
Atlanta GA 30360

In re Application of	:	
Washington, Les W.	:	**DECISION ON PETITION**
Application No. 11/801,840	:	
Filed: 05/12/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. N/A	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 12, 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

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

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Raj Basavaraju	:	DECISION ON PETITION
Application No. 11/801,842	:	TO WITHDRAW
Filed: May 11, 2007	:	FROM RECORD
Attorney Docket No. 36101-501-UTL	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 2011.

The request is **NOT APPROVED**.

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

The request was signed by James P. Cleary on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number, the Request must reflect withdrawal of practitioners associated with the same Customer Number.

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

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

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is no outstanding Office action that requires a reply.

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

/Joan Olszewski/
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

WITHERS & KEYS, LLC
P. O. BOX 2049
MCDONOUGH GA 30253

MAILED
FEB 25 2011
OFFICE OF PETITIONS

In re Application of
Daysh et al.
Application No. 11/801,869
Filed: May 10, 2007
Attorney Docket No. 10101-0001US01

ON PETITION

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 18, 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 by applicant's attorney that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 3635 for action on the merits commensurate with this decision.

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

Decision Date : June 9,2011

In re Application of :

David Castillejos

Application No : 11801879

Filed : 11-May-2007

Attorney Docket No : 3655-PAT

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed June 9,2011 , to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

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

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)
Application Number	11801879
Filing Date	11-May-2007
First Named Inventor	David Castillejos
Art Unit	3761
Examiner Name	PAULA CRAIG
Attorney Docket Number	3655-PAT
Title	OPTIC NERVE HEAD IMPLANT AND MEDICATION DELIVERY SYSTEM

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

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

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

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

☒ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Donn K. Harms/
Name	Donn K. Harms
Registration Number	38911

JUN 09 2011 IAP5 PATENT & TRADEMARK OFFICE

HFW DAE

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	11801879
Filing Date	11-May-2007
First Named Inventor	David Castillejos
Art Unit	3761
Examiner Name	PAULA CRAIG
Attorney Docket Number	3655-PAT
Title	OPTIC NERVE HEAD IMPLANT AND MEDICATION DELIVERY SYSTEM

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

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

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

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

☒ Applicant(s) status remains as SMALL ENTITY.

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

Issue Fee and Publication Fee :

06/10/2011 INTEFSW 00005780 11801879
01 FC:2453 810.00 DA

Issue Fee and Publication Fee are not due.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Donn K. Harms/
Name	Donn K. Harms
Registration Number	38911

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.
11/801,886	05/11/2007	Kazuyuki Yamaguchi	1004378.53910 (5000-5391)	5466

85775 7590 09/13/2010
Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York, NY 10281-2101

EXAMINER
KIM, PAUL D

ART UNIT	PAPER NUMBER
3729	

NOTIFICATION DATE	DELIVERY MODE
09/13/2010	ELECTRONIC

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

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

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

ptopatentcommunication@lockelord.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York NY 10281-2101

In re Application of:
YAMAGUCHI, KAZUYUKI et al
Serial No.: 11/801,886
Filed: May 11, 2007
Docket: 1004378.53910 (5000-5391)
Title: A METHOD FOR SETTING A PLURALITY OF STATOR COILS ON A STATOR CORE

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on Sep. 1, 2010, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The requisite petition fee has been paid.

The petition is dismissed.

The record shows that:

1) On May 13, 2010, the examiner issued a non-final Office action.
2) On Aug. 9, 2010, a telephone interview was conducted with no specific agreement reached.
3) On Aug. 13, 2010, the applicant filed a response to the non-final Office action allegedly by placing allowable dependent claim 2 in independent form. .
4) On Sep. 1, 2010, the applicant filed the current petition to suspend office action in order to provide additional time for the applicant to submit an additional supplemental amendment for the examiner's consideration.

In the petition, petitioner alleges that the applicant has filed a response to the non-final action of May 13, 2010 but now needs additional time to determine and prepare a supplemental amendment. Petitioner believes that this reason constitutes a good and sufficient cause to justify a six-month suspension of action.

The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Applicant has failed to outline where he/she presently stands in his/her determination and preparation of a supplemental amendment or to establish why, in particular, a six-month suspension of action will advance the determination and preparation of a supplemental amendment. Accordingly, applicant has failed to establish good and sufficient reasons to delay the prosecution. The application remains in active status and is being returned to the examiner for immediate consideration of the amendment filed on August 13, 2010 and issuance of an Office action. The applicant is reminded that filing and entry of a supplemental amendment is not a matter of right.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3729 for preparation of an Office action in response to the amendment filed on August 13, 2010. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Donald T. Hajec, 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

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of
Ahmadreza (Reza) Rofougaran, et al.
Application No. 11/801,940
Filed: May 11, 2007
Attorney Docket No. BP6267

DECISION ON PETITION

This is a decision on the petition filed March 11, 2011 under 37 CFR 1.182 requesting expedited consideration of the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2011, to revive the above-identified application.

The petition under 37 CFR 1.182 for expedited consideration is **GRANTED**.

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

This application became abandoned for failure to timely pay the issue and publication fees on or before February 17, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 17, 2010. Accordingly, the date of abandonment of this application is February 18, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of
James Murphy, et al.
Application No. 11/801,964
Filed: May 11, 2007
Attorney Docket No. 43390-8030.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 February 9, 2011.

The request is **APPROVED**.

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

The request was signed by Brian R Coleman on behalf of all attorneys of record who are associated with customer No. 22918. All attorneys/agents associated with the Customer Number 22918 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 December 7, 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: TRAPEZE NETWORKS, INC.
C/O JUNIPER NETWORKS, INC
1194 NORTH MATHILDA AVENUE
SUNNYVALE, CA 94089-1206

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
11/801,964	05/11/2007	James Murphy	43390-8030.US01

CONFIRMATION NO. 5913

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000046604496

Date Mailed: 03/16/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/09/2011.

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

/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

MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
600 West Broadway, Suite 2600
SAN DIEGO, CA 92101

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of	:	
Toni KANCILJA, et *al.*	:	
Application No. 11/801,985	:	DECISION GRANTING PETITION
Filed: May 11, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **30238-170**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 3772 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WENDEROTH, LIND
& PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Stavland, et al. :
Application No. 11/802,189 :
Filed: 21 May, 2007 :
Attorney Docket No. 2007_0844 :

DECISION

This is a decision on the petition filed on 29 June, 2010, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been 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.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to a non-final Office action mailed on 7 January, 2009, with reply due absent extension of time on or before 7 April, 2009.

The application went abandoned by operation of law after midnight 7 April, 2009.

The Office mailed the Notice of Abandonment on 17 August, 2009.

On 29 June, 2010, 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 record (including the petition filed 29 June, 2010) does not necessitate a finding that the delay between midnight 7 April, 2009 (the date of abandonment), and 29 June, 2010 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/ Counsel Matthew M. Jacob (Reg. No.25,154) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

---

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

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

[3] 35 U.S.C. §133 provides:

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

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

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to Technology Center 1796 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[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/802,202	05/21/2007	Day-Shyang Tsai	0941-1954PUS1	9478

7590 11/19/2010
Joe McKinney Muncy
4000 Legato Raod, Suite 310
Fairfax, VA 22033

EXAMINER
BLACKWELL, GWENDOLYN

ART UNIT	PAPER NUMBER
1784	

MAIL DATE	DELIVERY MODE
11/19/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

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

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

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 19, 2010

Joe McKinney Muncy
4000 Legato Raod, Suite 310
Fairfax VA 22033

In re Application of	:	**DECISION ON PETITION**
TSAI, DAY-SHYANG, et al.	:	
Application No. **11/802202**	:	***ACCEPTANCE OF COLOR***
Filed: **05/21/2007**	:	***DRAWINGS***
Attorney Docket No: **0941-1954PUS1**	:	

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 21, 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
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED
MAR 12 2012
OFFICE OF PETITIONS

In re Application of

Kim, et al.

Application No. 11/802,225

Filed: May 21, 2007

Attorney Docket No. 1907.1126

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed February 6, 2012.

The petition is **granted**.

This application was held abandoned on July 13, 2011, after no reply was received to the final Office action mailed April 12, 2011. The notice set forth a shortened statutory period of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 13, 2011. A Notice of Abandonment was mailed December 6, 2011. The instant petition was filed on February 6, 2012. Petitioner maintains that the notice of April 12, 2011, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center GAU 2622 for further processing that will include remailing the final Office action and resetting of the period for reply.

Questions 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/802,328	05/22/2007	Lieven Stuyver	BJS-2551-210	1206

23117 7590 08/17/2011
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
PENG, BO

ART UNIT	PAPER NUMBER
1648	

MAIL DATE	DELIVERY MODE
08/17/2011	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.

AUG 1 7 2011

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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B. J. Sadoff
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:
Stuyver	:Decision on Petition
Serial No.: 11/802,328	:
Filed : 22 May 2007	:
Attorney Docket No.: BJS-2551-210	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 4 February 2011 requesting reconsideration of the restriction requirement mailed 23 March 2010.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to restriction practice under Chapter 800.

On 29 July 2009, the examiner set forth a restriction requirement which required two elections of species.

On 29 December 2009, applicants elected the probe having SEQ ID No 116 and the primer set of SEQ ID Nos 134 and 135.

On 23 March 2010, the examiner vacated the 29 July 2009 species requirement and set forth a second restriction requirement which divided claims 1-12 into three groups and required election of single sequence or single pair of sequences (primers).

On 29 December 2009, applicants elected, with traverse, Group I and the probe having SEQ ID No 116 and the primer set of SEQ ID Nos 75 and 94.

On 4 August 2010, the examiner mailed to applicants a non-final Office action in which the traversal was considered, and the requirement was made final. Claims 7 to 11 were withdrawn from consideration under 37 CFR 1.142(b) as being directed to non-elected subject matter. Claims 1-6 and 12 were examined on the merits. Claims 5-6 were rejected under 35 U.S.C. 112, 2nd paragraph. Claims 1-5 and 12 were found unpatentable over Uchida and McDonough in view of van Draanen and Tisdale. Claims 1-6 and 12 were rejected over non-statutory double patenting of U.S. Patent No 6,709,812. The examiner indicated as allowable subject matter the use of probes of SEQ ID No 116 for detecting a mutation in YMDD motif of RT polymerase of HBV.

On 4 February 2011, applicants filed a response to the Office action along with this petition.

DISCUSSION

The file history of the instant and related parent applications have been considered carefully.

The petition points out that this application is divisional of 10/453,792. On 27 October 2005, the examiner set forth the following restriction requirement in '792:

> 6. Restriction to one of the following inventions is required under 35 U.S.C. 121:
>
> I. Claims 15-20, 25-29, drawn to a method for identifying a HBV strain in a sample, probes, primers and a kit, classified in class 435, subclass 5 and classified in 514, subclass 44.
>
> If this Group is elected, Applicant is required to elect a combination of one pair of primers and two probes by SEQ ID NOs from claims 18, 20, and 25-28.
>
> II. Claims 21-23, drawn to a HBV mutant, classified in class 435, subclass 239.

In '792, applicants elected Group II for examination and filed the instant application to prosecute Group I. In '792, the subject matter of Group II was examined and issued with independent claims that were not limited to single SEQ ID Nos.

The petition also points out that in a related application, which issued as US Patent No 6,709,812, claims to both products (probes, primers and kits) and processes were issued together, with independent claims that were not limited to particular SEQ ID Nos.

In the instant application, a divisional directed to Group I of '792, a first restriction requirement was consistent with parent '792 by grouping the products and processes together. However, nine months later, the examiner vacated that requirement and counter to the Office's previous

position, set forth a second restriction requirement that divided the claims of Group I into three groups as follows:

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-6 and 12, drawn to a method for identifying a drug resistant HBV strain in a sample by determine a mutation in HBV RT gene resulting in an amino acid change in the YMDD motif of HBV polymerase, classified in class 435, subclass 5.
   If this Group is elected, Applicant is required to elect (1) ONE probe by SEQ ID NO: from Claims 6, 8 and 11; and (2) ONE pair of primers by SEQ ID NO: from Table 1 (Claim 4).

   II. Claims 7, 8 and 11, drawn to probes of SEQ ID NO: 95-103, 114-117, 127-133, 227-234 and 243-266, classified in class 536, subclass 24.3.
   If this Group is elected, Applicant is required to elect ONE probe by SEQ ID NO:

   III. Claims 9 and 10, drawn to primers for amplifying a HBV *pol*, classified in class 536, subclass 24.3.
   If this Group is elected, Applicant is required to elect ONE pair of primers by SEQ ID NO: from Table 1 (Claims 9 and 10).

Within each Group, a further election of a single sequence or single pair of sequences was required.

To support this requirement to an election of a single species, the examiner pointed to MPEP 803.04. See top of page 4 of the non-final Office action on the merits. This is incorrect. It is noted that on 27 March 2007, MPEP 803.04 had been superseded by an Official Gazette Notice. *See Examination of Patent Applications Containing Nucleotide Sequences*, 1316 *Off. Gaz Pat. Off.* 122 (March 27, 2007). In that Notice, examiners were informed that claims to polynucleotides are not presumed to be directed to independent and distinct inventions, per se, but will be considered for restriction, examination, and rejoinder in the same manner as claims to any other type of molecule.

Further, applicants pointed out how similar claims have been treated for restriction in related cases. While each application is generally considered on its own merits with regard with restriction and examination practices, in this instance, a review of the parent files was warranted because the examiner raised a non-statutory double patenting rejection between the instant application and one of the parent applications.

MPEP 804.01 cautions the Office to take care to guard against erroneous requirements for restrictions where the claims define essentially the same invention in different language and which, if acquiesced in, might result in the issuance of several patents for the same invention.

MPEP 808.01(a) states that **"Election of species should not be required between claimed species that are considered clearly unpatentable (obvious) over each other."** (Emphasis in the original.)

In the double patenting rejection made between the claims of the instant application in view of the '812 patent, the examiner has taken the position that "the probe of SEQ ID NO: 115 appears

to be functionally equivalent to the probes recited in claims 6 of the instant application." This position appears to be inconsistent with the determination that each probe or each pair of primers was patentably distinct from each other. In short, given the analysis the examiner used to justify the double patenting rejection, maintaining the restriction and election of species requirements would be counter to the guidance set forth in MPEP 808.01(a) and 804.01.

Finally, MPEP 803 states that "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions." In this instance, it is determined that it would not have posed a serious burden to examine all the claims of the instant application.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 4 February 2011 is **GRANTED** as follows.

The restriction requirement between Groups I, II and III mailed 23 March 2010 has been withdrawn. The intraclaim restriction requirement to elect a single probe and a single pair of primers has been withdrawn and replaced with an election of species requirement.

The application will be forwarded to the examiner to consider the papers filed 4 February 2011 in a manner consistent with this petition decision. Markush claims are to be examined according to the guidance in MPEP 803.02 and the FR Notice.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,697,890 B2
Ser. No. : 11/802,349
Inventor(s) : Fukui et al.
Issued : Apr. 13, 2010
Title : COMMUNICATION DEVICE AND COMMUNICATION SYSTEM
Docket No. : TAI-157
Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MUNCY, GEISSLER, OLDS & LOWE, PLLC
4000 LEGATO ROAD
SUITE 310
FAIRFAX VA 22033

MAILED

SEP 02 2011

OFFICE OF PETITIONS

In re Application of :
KING, et al :
Application No. 11/802,369 : ON PETITION
Filed: May 22, 2007 :
Attorney Docket No. 2519-0386PUS1 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 26, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). An extension of time pursuant to the provisions of 37 CFR 1.136(a) for one (1) month was obtained. Accordingly, the date of abandonment of this application is August 27, 2010. A Notice of Abandonment was mailed December 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2891 for processing of the RCE and 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
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Tomotake Inagaki, et al.	:	
Application No. 11/802,505	:	DECISION GRANTING PETITION
Filed: May 23, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 132607	:	

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 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington DC 20007-5109

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Ryde et al.	:	
Patent Number: 7,927,627	:	DECISION ON
Issue Date: 04/19/2011	:	PETITION REGARDING
Application No. 11/802542	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 05/23/2007	:	
Attorney Docket Number: 029318-1429	:	

This is a decision on the petition filed on May 12, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty-three (553) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty-three (553) 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 216 days, beginning on June 3, 2010, the date of filing of the notice of appeal, and ending on January 4, 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/802,550	05/23/2007	Philippe Trotin	037141.59011US	2512

79888 7590 08/09/2010
Mann+Hummel GMBH
Department VR-P
Hindenburgstr. 45
Ludwigsburg, 71638
GERMANY

EXAMINER
ALLEN, JEFFREY R

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
08/09/2010	ELECTRONIC

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

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

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

patentmanagement@mann-hummel.com
james.hasselbeck@mann-hummel.com

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Mann+Hummel GMBH
Department VR-P
Hindenburgstr. 45
Ludwigsburg 71638 DE GERMANY

In re Application of:	
TROTIN, PHILIPPE et al	
Serial No.: 11/802,550	
Filed: May 23, 2007	DECISION ON PETITION
Docket: 037141.59011US	
Title: CLOSURE DEVICE WITH A PRESSURE VALVE	

This is a decision on the petition filed on March 21, 2010 seeking withdrawal of the finality of the Office action mailed January 7, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the March 21, 2010 petition, the petitioner requests the finality of the Office action of January 7, 2010 be reconsidered and withdrawn because the applicant believes that the final rejection of January 7, 2010 was not made in accordance MPEP 706.07(a). In particular, petitioner argues that the finality of the subject Office Action should be withdrawn because the examiner has failed to follow the requirements of MPEP 2111 in determining the broadest reasonable interpretation of claims during examination. In the petition, petitioner is raising arguments regarding the propriety of the examiner's rejection under 35 USC 103. This is an appealable matter and not petitionable. As such, the petition will not be decided by this decision under 37 CFR § 1.181(a) (1)[1].

A review of the record also shows that the instant petition was filed more than two months after the mailing date of the final Office action of January 7, 2010. The current petition was filed on March 21, 2010, almost three months from the Office action from which relief is requested.

[1] 37 CFR § 1.181 Petition to the Director. (a) Petition may be taken to the Director: (1)From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

Pursuant to 37 CFR 1.181(f)[2], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of January 7, 2010 will not be granted. The final rejection stands.

For reason as stated above, petitioner's request to withdraw the finality of the Office action dated January 7, 2010 is dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Donald T. Hajec, Director
Technology Center 3700

[2] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Annie Chang	:	
Application No. 11/802,584	:	DECISION ON PETITION
Filed: May 23, 2007	:	
Attorney Docket No. 5545/0251PUS1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 6, 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 7, 2007. The Notice of Abandonment was mailed April 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the basic filing fee of $165, the surcharge of $65, the examination fee of $110 and the search fee of $270, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Joe McKinney Muncy**
PO Box 1364
Fairfax, VA 22038-1364

UNITED STATES PATENT AND TRADEMARK OFFICE

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September 21, 2011

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

Re Application of
KIM, IL KU
Application: **11/802626**
Filed: **05/24/2007**
Attorney Docket No: **069576-0240**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 24, 2007.

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

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

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

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

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

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
Kang Soo SEO et al. :
Application No. 11/802,659 :
Filed: May 24, 2007 :
Attorney Docket No. 46500-000563/US/COA :

ON PETITION

This decision on the petition under 37 CFR 1.59(b), filed November 30, 2010, to expunge information from the above identified application, is being treated as a petition under 37 CFR 1.181 (no fee) to move office papers from one patent application to another patent application.

The petition is **GRANTED**.

Petitioner requests that a Foreign Priority document, KR 10-2006-0134049, filed May 24, 2007, be expunged from the record. Petitioner asserts that document KR 10-2006-0134049 was erroneously uploaded to the application file by the USPTO, and that the $200 petition fee to expunge the document from the record should not be charged.

A review of the official file finds that Foreign Priority document, KR 10-2006-0134049, filed May 24, 2007, was inadvertently copied into the official file from another application, namely, application serial number 11/802,656.

As set forth in MPEP 724.05(III):

> Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g., application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

As such, Foreign Priority document, KR 10-2006-0134049 will be removed from the official application file and transferred to the correct official application file, namely, application serial number 11/802,656, and no fee will be charged.

Application No. 11/802,659

Telephone inquiries concerning this decision should be directed to Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

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FALLS CHURCH VA 22040-0747

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,825,592	:	
Issue Date: November 2, 2010	:	
Application No. 11/802,697	:	DECISION ON PETITION
Filed: May 24, 2007	:	
Attorney Docket No. 2611-0226PUS2	:	

This is a decision on the Request Under 37 C.F.R. §3.81 To Correct Assignee Identification and Request For Certificate Of Correction Pursuant To 35 U.S.C. 255 And 37 C.F.R. 1.323, filed November 9, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to add – Kyocera Corporation, Kyoto-shi (JP) -- as the additional assignees to the Title Page of the Patent via a Certificate of Correction.

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

Petitioner requests that the present Petition was submitted to add the omitted –Kyocera Corporation, Kyoto-shi (JP) -- on the previously submitted PTOL-85B.

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. *See also* MPEP 1481.01.

Section 1481.01, Correction of Assignees' names, of the Manual of Patent Examining Procedures (MPEP states, in part:

> "The Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 3) for assignment date which should be completed in order to comply with 37 CFR §3.81(b). Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Transmittal Form PTOL-85B), the patent will issue to the applicant. Assignment date printed on the patent will be based solely

on the information so supplied."

A review of United States Patent and Trademark Office (USPTO) records reveals that merger assignment documents only were recorded for the present patent at Reel: 024358, Frame: 0255 on May 10, 2010, and that no other assignments therefor were filed. However, the records show *Chimei Innolux Corporation* as the only assignee and does not identifies *Kyocera Corporation* has an additional assignee. Accordingly, issuance of a Certification of Correction would not be proper.

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

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

MAY 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,825,592	:	
Issue Date: November 2, 2010	:	
Application No. 11/802,697	:	RENEWED DECISION ON PETITION
Filed: May 24, 2007	:	
Attorney Docket No. 2611-0226PUS2	:	

This is a decision on the Renewed Request Under 37 C.F.R. §3.81 To Correct Assignee Identification, filed April 22, 2011, to add the second assignee's name and residence on the front page of the above-identified patent by way of a Certificate of Correction.

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

The petition decision mailed March 22, 2011, dismissed the 37 CFR §3.81(b) petition filed November 9, 2010, because the USPTO records revealed that merger assignment documents only were recorded for the present patent at Reel: 024358, Frame: 0255 on May 10, 2010, and that no other assignments therefor were filed. After further review, assignment documents revealed that the present patent was a continuation of U.S. Application No. 10/964,616 (now U.S. Patent 7,268,484) and *Chimei Innolux Corporation and Kyocera Corporation* was recorded at Reel: 016196, Frame 0800 on January 25, 2005. Therefore, the renewed petition is granted.

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. 7,825,592.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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Paper No.

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

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Nelson et al.	:	DECISION ON PETITION
Application No. 11/802,726	:	
Filed: May 24, 2007	:	
Atty Docket No. 11635.0008-01	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 11, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed June 23, 2010. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective September 24, 2010. A courtesy Notice of Abandonment was mailed on February 15, 2011.

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

Technology Center AU 1627 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed March 11, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE NW, SUITE 700
WASHINGTON, DC 20036

MAILED
AUG 05 2011
OFFICE OF PETITIONS

In re Application of	:	
Jin AMANOKURA, et *al.*	:	
Application No. 11/802,813	:	DECISION GRANTING PETITION
Filed: May 25, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **042371A**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 5, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 1789 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re application of Ban et al. Application No. 11/802,823 Filed: May 25, 2007 For: WORKPIECE PICKING DEVICE AND METHOD	**DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed September 28, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the preliminary amendment filed September 28, 2010. The request to participate in the PPH pilot program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Mikado Buiz, Quality Assurance Specialist, at (571) 272-6578.

/ Mikado Buiz /

Mikado Buiz,
Quality Assurance Specialist
Technology Center 3600

BM/BM: 10/29/10

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/802,834	05/25/2007	George Valentino Van Heerde	BJS-2728-8	3563

23117 7590 02/21/2012
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
KIM, ALEXANDER D

ART UNIT	PAPER NUMBER
1656	

NOTIFICATION DATE	DELIVERY MODE
02/21/2012	ELECTRONIC

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

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

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

PTOMAIL@nixonvan.com
clm@nixonvan.com

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:	:
Van Heerde et al.	:
Serial No.: 11/802,834	: PETITION DECISION
Filed: May 27, 2007	:
Attorney Docket No.: **BJS-2728-8**	:

This letter is in response to the "Request" filed on January 20, 2012 to withdraw and vacate the Office action of January 12, 2012. It is pointed out that this "request" is being treated as a petition filed under 37 C.F.R. § 1.181.

BACKGROUND

A Notice of Allowance has been mailed January 31, 2012 which is subsequent to the petition of January 20, 2012.

DECISION

The petition is **DISMISSED AS MOOT** in view of the Notice of Allowance mailed January 31, 2012.

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

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

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED
OCT 19 2010
OFFICE OF PETITIONS

In re Application of	:	
Jan-Carl Plagge	:	DECISION ON PETITION
Application No. 11/802,929	:	TO WITHDRAW
Filed: May 25, 2007	:	FROM RECORD
Attorney Docket No. 741439-44	:	

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 29, 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.***

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is an outstanding Office action mailed August 16, 2010 that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: HSIA3049/BEU	Patent Number: 7661846
Filing Date (or 371(b) or (f) Date): 2007-05-29	Issue Date: 2010-02-16
First Named Inventor: Meng-Jia Hsiao	
Title: FIXING STRUCTURE AND BACKLIGHT MODULE USING THE SAME	

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

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

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

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

Signature /ThomasJMoore/	Date 2010-08-12
Name (Print/Typed) Thomas J. Moore	Registration Number 28974

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

☐ *Total of _____ forms are submitted.

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

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

PTO/SB/131 (01-10)
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U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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Instruction Sheet for: REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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

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

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

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

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

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

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

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

Privacy Act Statement

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

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

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

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

Mail Date: 09/03/2010

Applicant	: Meng-Jia Hsiao	: DECISION ON REQUEST FOR
Patent Number	: 7661846	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/802,946	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ALEXANDRIA VA 22314-1176

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DEC 28 2010

OFFICE OF PETITIONS

In re Application of :
Chih-Kung Lee et al. :
Application No. 11/802,947 : NOTICE
Patent No. 7,792,006 :
Filed: May 29, 2007 :
Attorney Docket No. **LEEC3091D/BEU**

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 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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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JUL 27 2011
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

In re Application of	:	
Chih-Kung Lee et al.	:	
Patent No. 7,792,006	:	NOTICE
Application No. 11/802,947	:	
Filed: May 29, 2007	:	
Attorney Docket No. **LEEC3091D/BEU**		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 July 05, 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) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/802,993	05/29/2007	Toshiaki Takahashi	008312-0361525	5863

7590 09/01/2010
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
MATAR, AHMAD

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
09/01/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/01/2010 NFARMER
05/29/2007 AAHMED1 00000053 033975 21882993
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

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SQUIRE, SANDERS & DEMPSEY (US) LLP
275 BATTERY STREET, SUITE 2600
SAN FRANCISCO CA 94111-3356

In re Application of	:	
HOSSAINY et al.	:	DECISION ON APPLICATION
Application No. 11/803,031	:	FOR PATENT TERM ADJUSTMENT
Filed: May 10, 2007	:	
Attorney Docket No. 050623.00787	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed August 24, 2011. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be set at 517 days.

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

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **517 days.** A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On May 26, 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 483 days. Applicants timely filed the instant application for patent term adjustment.

Applicants dispute the entry of a period of reduction of 34 days for the filing of a terminal disclaimer on August 15, 2010. Applicants assert that they filed a terminal disclaimer on July 12, 2010, with their response to the non-final Office action mailed May 11, 2010. Applicants contend that they did not file any terminal disclaimer on August 15, 2010, and request removal of the 34-day reduction.

Applicants' assertion is well-taken. A review of the application history reveals that applicants did not file a terminal disclaimer or any other supplemental paper on August 15, 2010. Rather, the paper dated August 15, 2010, was a notification mailed by the USPTO of the approval of the terminal disclaimer. Therefore, no reduction under 37 CFR 1.704(c)(8) is warranted. The period of reduction of 34 days will be removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 517 days.

The Office acknowledges receipt 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 PAIR Screen

11/803,031	MEDICAL DEVICE COATED WITH A COATING CONTAINING ELASTIN PENTAPEPTIDE VGVPG	050623.00787	08-28-2011::22:16:36

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/803,031

Filing or 371(c) Date:	05-10-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	550
A Delays:	550	PTO Manual Adjustments:	34
B Delays:	0	Applicant Delays:	67
C Delays:	0	Total PTA Adjustments:	517

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
62	08-28-2011	Adjustment of PTA Calculation by PTO	34		0
55	05-26-2011	Mail Notice of Allowance			0
54	05-25-2011	Office Action Review			0
53	05-25-2011	Office Action Review			0
52	05-25-2011	Issue Revision Completed			0
51	05-25-2011	Document Verification			0
50	05-25-2011	Notice of Allowance Data Verification Completed			0
49	05-25-2011	Examiner's Amendment Communication			0
48	05-25-2011	Allowability Notice			0
46	05-17-2011	Date Forwarded to Examiner			0
45	05-16-2011	Amendment after Final Rejection		27	43
44	05-16-2011	Request for Extension of Time - Granted			0
43	01-19-2011	Mail Final Rejection (PTOL - 326)			0
42	01-18-2011	Final Rejection			0
41	11-09-2010	CRF Is Good Technically / Entered into Database			0
40	11-04-2010	Date Forwarded to Examiner			0
39	11-03-2010	Supplemental Response		6	37
38	10-29-2010	Date Forwarded to Examiner			0

37	10-28-2010	Response to Election / Restriction Filed			0
36	09-28-2010	Mail Restriction Requirement			0
35	09-27-2010	Restriction/Election Requirement			0
34	08-18-2010	Paralegal TD Accepted			0
33	08-15-2010	Terminal Disclaimer Filed		34	30
32	07-21-2010	CRF Is Flawed Technically / Not Entered into Database			0
31	07-15-2010	Date Forwarded to Examiner			0
30	07-12-2010	Response after Non-Final Action			0
29	05-11-2010	Mail Non-Final Rejection			0
28	05-10-2010	Non-Final Rejection			0
25	08-15-2008	Information Disclosure Statement considered			0
24	06-28-2007	Information Disclosure Statement considered			0
23	03-04-2010	Date Forwarded to Examiner			0
22	02-04-2010	Response to Election / Restriction Filed			0
21	01-11-2010	Mail Restriction Requirement	550		0.5
20	01-07-2010	Restriction/Election Requirement			0
19	08-15-2008	Information Disclosure Statement (IDS) Filed			0
18	08-15-2008	Information Disclosure Statement (IDS) Filed			0
17	03-01-2008	Case Docketed to Examiner in GAU			0
16	02-14-2008	PG-Pub Issue Notification			0
15	02-07-2008	IFW TSS Processing by Tech Center Complete			0
14	06-28-2007	Reference capture on IDS			0
13	06-28-2007	Information Disclosure Statement (IDS) Filed			0
12	11-19-2007	Application Dispatched from OIPE			0
11	11-07-2007	Sent to Classification Contractor			0

10	11-07-2007	Filing Receipt - Updated	0
9	11-01-2007	Additional Application Filing Fees	0
8	11-01-2007	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
7	11-01-2007	Applicant has submitted new drawings to correct Corrected Papers problems	0
6	08-28-2007	Notice Mailed--Application Incomplete--Filing Date Assigned	0
4	06-28-2007	Information Disclosure Statement (IDS) Filed	0
3	06-01-2007	Cleared by OIPE CSR	0
2	05-27-2007	IFW Scan & PACR Auto Security Review	0
1	05-14-2007	Initial Exam Team nn	0
0.5	05-10-2007	Filing date	0

Close Window

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Bader et al.	:	DECISION ON PETITION
Application Number: 11/803118	:	
Filing Date: 05/11/2007	:	
Attorney Docket Number:	:	
15730.0031USC1	:	

This is a decision in reference to the petition filed under 37 CFR 1.137(a), on May 18, 2010, which, in view of petitioner's statement that an Office communication was never received, is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned on March 24, 2010, for failure to timely file a response to the Notice of Allowance and Fee(s) Due mailed on December 23, 2009, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on April 19, 2010.

Petitioner asserts that the Notice of Allowance and Fee(s) Due ("Notice") mailed on December 23, 2009, was never received because it was sent to an old correspondence address.

Specifically, petitioner asserts that a Revocation of Power of Attorney and New Power of Attorney by Assignee was filed on February 2, 2009, but was never entered by the Office. Petitioner further avers that the Office action mailed on April 21, 2009, was mailed to the old correspondence address.

Accordingly, on October 21, 2009, petitioner included with the reply to the Office action a communication requesting that the previously filed Revocation and Power of Attorney be entered. Petitioner avers that the Notice mailed on December 23, 2009, was also sent to the old correspondence address.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received.

A review of the official file reveals that a power of attorney and change of correspondence address were filed on February 2, 2009, but that the power of attorney and change of correspondence address was not entered. Consequently, the Notice mailed on December 23, 2009 was mailed to the old correspondence address.

As such, the showing of record is that the Office erred in mailing the Notice of Allowance and Fee(s) Due mailed on December 23, 2009, to the previous address rather than the current correspondence address.

The petitioner has made a sufficient showing of nonreceipt of the Notice mailed on December 23, 2009. As such, there is no abandonment in fact. The holding of abandonment is <u>withdrawn</u>, and the Notice of Abandonment is <u>vacated</u>.

As the present petition was not necessitated by an error on the part of petitioner, no petition fee is due. As the publication fee has not been paid, the petition fee will be applied to the publication fee due, and the balance will be refunded to counsel's deposit account.

The Office regrets the error and apologizes for any inconvenience to petitioner.

Receipt of the power of attorney and change of correspondence address is acknowledged.

The application file is being referred to the Office of Data Management for processing into a patent. As a reply to the Notice of Allowance and Fee(s) Due has been filed with the subject petition, it is not necessary to remail the outstanding Notice.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/803,118	05/11/2007	Joseph F. Bader	

CONFIRMATION NO. 4678

POA ACCEPTANCE LETTER

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

OC000000045300034

Date Mailed: 01/05/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/02/2009.

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.

/diwood/

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

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P.O. DRAWER 800889
DALLAS TX 75380

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Simon BIKULCIUS et al.	:	
Application No. 11/803,231	:	DECISION ON PETITION
Filed: May 14, 2007	:	
Attorney Docket No. P06831	:	

This is a decision on the petition, filed November 08, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 15, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 15, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on June 30, 2010. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated June 30, 2010, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or

after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 15, 2010 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on June 30, 2010.

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 2117 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
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PYLE & PIONTEK LLC
221 N. LASALLE STREET, SUITE 1207
CHICAGO, IL 60601

MAILED
AUG 04 2010
OFFICE OF PETITIONS

In re Application of
David B. Gist, et al.
Application No. 11/803,264
Filed: May 14, 2007
Attorney Docket No. IMI-40052

DECISION ON PETITION

This is a decision on the petition, filed May 21, 2010, which is being treated as a petition under 37 CFR 1.8(b) requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative a petition under the unavoidable provisions of 37 CFR 1.137(a) or under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.8(b) is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 16, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 16, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing on February 16, 2010, which included the following papers: an amendment and transmittal letter. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated February 16, 2010, which would have rendered the reply timely if received. The original response is now in the file.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of November 16, 2009 is hereby **withdrawn** and the **application restored to pending status**.

In view of the granting of the petition filed under 37 CFR 1.8(b), the petition under 1.137(a) and 37 CFR 1.137(b) submitted with the petition on are deemed unnecessary, and hereby **dismissed as moot**.

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

This application is being referred to Technology Center AU 3744 for appropriate action in the normal course of business on the reply received with the petition.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Paper No.

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO IL 60606

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APR 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Mennie et al.	:	DECISION ON APPLICATION
Application No. 11/803,281	:	FOR
Filed: May 14, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 247171-000373USD2	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed December 22, 2010. Applicants request that the initial determination under 35 USC 154(b) be corrected from eighty-four (84) days to one hundred sixty-six (166) days.

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

On November 16, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 84 days. On December 22, 2010, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants maintain that 121 days of A-delay accrued during the period from December 13, 2009 to April 13, 2010. Whereas, the Office only calculated 39 days of Office delay during the period between March 6, 2010 (the day after the date that is four months after the date an appeal brief in compliance with 1.192 was filed on November 5, 2009)

[1] PALM records indicate that the Issue Fee payment was received on December 22, 2010.

and April 13, 2010 (the date of mailing of any of an action under 35 U.S.C. 132).

Applicant states that the patent issuing from this application is not subject to a terminal disclaimer.

Applicant's arguments have been considered, but not found persuasive. The period of adjustment was correctly calculated as 39 days for Office delay in taking action in response to the date on which an appeal was taken in this application. See 35 U.S.C. 154(b)(1)(A)(ii),

35 U.S.C. 154(b)(1)(A) provides, in pertinent part, that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> ...
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

37 CFR 1.702(a) provides, in pertinent part 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:

> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

However, as provided in 37 CFR 1.703(a), this period is calculated as:

> (4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

Furthermore, as stated in the Final Rule[2],

> Section 1.703(a)(4) also pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii). Section 1.703(a)(4) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date an appeal brief in compliance with 1.192 was filed and ending on the mailing date of any of an examiner's answer under 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. As discussed below, the phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. The phrase "appeal brief in compliance with 1.192" requires that:(1) the appeal brief fee (1.17(c)) be paid (1.192(a)); and (2) the appeal brief complies with 1.192(c)(1) through (c)(9). (*See also* the Response to Comment 38).

Applicants are incorrect in calculating a period of adjustment for Office delay from the date of filing of a notice of appeal to the date of mailing of a notice of allowance. In this instance, an appeal brief in compliance with 1.192 was filed on November 5, 2009 and the Office took action in response on April 13, 2009, by mailing a non-final Office action. As this was 39 days outside of four months of the filing of the appeal brief, a period of Office delay of 39 days was entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance of 84 days is correct.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. Any further period of adjustment accrued pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be reflected in the patent term adjustment shown on the issue notification letter mailed approximately three weeks prior to the issuance of the patent.

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[2] See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

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

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Paper No.

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO IL 60606

MAILED

AUG 26 2011

OFFICE OF PETITIONS

In re Application of	:	
Mennie et al.	:	DECISION ON APPLICATION
Application No. 11/803,281	:	FOR
Filed: May 14, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 247171-000373USD2	:	

This is a decision on the "REQUEST FOR RE-CONSIDERATION OF APPLICATION FOR PATENT TERM ADJUSTMENT," filed May 20, 2011. Applicants again request that the initial determination under 35 USC 154(b) be corrected from eighty-four (84) days to one hundred sixty-six (166) days.

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

On November 16, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 84 days. On initial petition filed December 22, 2010, applicants asserted that 121 days of A-delay accrued during the period from December 13, 2009 to April 13, 2010. Whereas, the Office only calculated 39 days of Office delay during the period between March 6, 2010 (the day after the date that is four months after the date an appeal brief in compliance with 1.192 was filed on November 5, 2009) and April 13, 2010 (the date of mailing of any of an action under 35 U.S.C. 132).

By decision mailed April 20, 2011, the petition was dismissed. Applicant's arguments were not found persuasive. It was determined that the period of adjustment was correctly calculated as 39 days for Office delay in taking action in response to the date on which an appeal was taken in this application.

The following statutes and regulations were cited:

35 U.S.C. 154(b)(1)(A) provides, in pertinent part, that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> ...
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

37 CFR 1.702(a) provides, in pertinent part 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:

> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

However, as provided in 37 CFR 1.703(a), this period is calculated as:

> (4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

Furthermore, as stated in the Final Rule[1],

> Section 1.703(a)(4) also pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(ii). Section 1.703(a)(4) specifies that the period is the number of days, if any, beginning on the day after the date that is four months after the date an appeal brief in compliance with 1.192 was filed and ending on the mailing date of any of an examiner's answer under 1.193, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. As discussed below, the phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed. The phrase "appeal brief in compliance with 1.192" requires that:(1) the appeal brief fee (1.17(c)) be paid (1.192(a)); and (2) the appeal brief complies with 1.192(c)(1) through (c)(9). (*See also* the Response to Comment 38).

The decision of April 20, 2011 has been reconsidered and is affirmed. It continues to be the Office's position that applicants are incorrect in calculating a period of adjustment for Office delay from the date of filing of a notice of appeal to the date of mailing of a notice of allowance. In this instance, an appeal brief in compliance with 1.192 was filed on November 5, 2009 and the Office took action in response on April 13, 2009, by mailing a non-final Office action. As this was 39 days outside of four months of the filing of the appeal brief, a period of Office delay of 39 days was entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance of 84 days is correct.

The Office acknowledges the notice referenced by applicant in their argument. 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 "appeal was taken" applied in this

---

[1] See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JOHN C. SMITH, P.A.
4125 NW 58th LANE
BOCA RATON FL 33496

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MAR 2 1 2011

OFFICE OF PETITIONS

In re Application of	:	
Eric A. Dantas	:	
Application No. 11/803289	:	DECISION ON PETITION
Filing or 371(c) Date: 05/14/2007	:	
Attorney Docket Number:	:	
06750701	:	

This is a Decision in response to the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed December 16, 2010.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 28, 2008. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned November 22, 2008.

Applicant files the present petition, Request for Continued Examination ("RCE"), and an Amendment and an Information Disclosure Statement ("IDS").

The petition under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Regarding a RCE, an applicant cannot request continued examination of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in

the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)).

In this instance, the application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 21, 2008. As such, prosecution of the application is not closed, and the RCE is not a proper reply to the Office action.

Petitioner may request a refund of the RCE fee by writing to the Office of Finance, Refund Section. A copy of this Decision should be included with the request.

The MPEP further provides that "[i]f prosecution in the application is not closed, applicant will be notified of the improper RCE and any amendment/reply will be entered. Thereafter, the application will be forwarded to the examiner for consideration of the amendment/reply under 37 CFR 1.111. MPEP 706.07(h).

In view of the above, the petition is granted. The application is being referred to Technology Center Art Unit 3711 for consideration of the amendment.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,878,391	:	
Issued: February 1, 2011	:	
Application No. 11/803,325	:	ON PETITION
Filed: May 14, 2007	:	
Attorney Docket No. BIG007 P303	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 6, 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**.

Additionally, petitioner has submitted $500.00 towards the required $590.00 deficiency fee submission, thus creating a $90.00 shortage. This shortage will be charged to petitioner's deposit account as authorized December 6, 2010.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL, HASTINGS, JANOFSKY & WALKER, LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

MAILED
MAR 17 2011
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In re Application of	:	
VADIM, et al	:	
Application No. 11/803,418	:	DECISION ON PETITION
Filed: May 14, 2007	:	TO WITHDRAW
Attorney Docket No. 147855	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2011.

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

A review of the file record indicates that the power of attorney to Todd M. Schneider and the attorneys associated with Customer No. 36183, has been revoked by the assignee of the patent application on February 9, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

cc: NORTHSHORE UNIVERSITY HEALTHSYSTEM
1301 CENTRAL AVENUE
EVANSTON, IL 60201

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Paper No.

LEONARD TACHNER
A PROFESSIONAL LAW
CORPORATION
17961 SKY PARK CIRCLE
SUITE 38-E
IRVINE CA 92614

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of :
Kamentser et al. : DECISION ON PETITION
Application No. 11/803,442 :
Filed: May 14, 2007 :
Atty Docket No. BOKAM-16 :

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed October 14, 2011.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed December 22, 2010. The Notice set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective March 23, 2011. A courtesy Notice of Abandonment was mailed on July 19, 2011.

In response, applicants filed the instant petition. The petition included payment of the petition fee in the amount of $810 from Deposit Account No. 06-0930. However, effective September 26, 2011, the petition fee under 1.17(m) increased to

$930 for a small entity. No authorization to charge any further required fees was present in the application. The undersigned left a message requesting the deficiency in fee payment; however, no further authorization received, a decision is being rendered based on the lack of fee.

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 C.F.R. § 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 C.F.R. § 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. § 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 C.F.R. § 1.17(l) or 1.17(m), regardless of whether the petition under 37 C.F.R. § 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 C.F.R. § 1.137 lacking the requisite petition fee.

As payment of the full petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of an abandoned application and petitioner has not made such a payment, the petition must be dismissed without consideration on the merits under § 1.137.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LEONARD TACHNER
A PROFESSIONAL LAW
CORPORATION
17961 SKY PARK CIRCLE
SUITE 38-E
IRVINE CA 92614

In re Application of :
Kamentser et al. : DECISION ON PETITION
Application No. 11/803,442 :
Filed: May 14, 2007 :
Atty Docket No. BOKAM-16 :

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed October 14, 2011.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed December 22, 2010. The Notice set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective March 23, 2011. A courtesy Notice of Abandonment was mailed on July 19, 2011.

In response, applicants filed the instant petition. The petition included payment of the petition fee in the amount of $810 from Deposit Account No. 06-0930. However, effective September 26, 2011, the petition fee under 1.17(m) increased to

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$930 for a small entity. No authorization to charge any further required fees was present in the application. The undersigned left a message requesting the deficiency in fee payment; however, no further authorization received, a decision is being rendered based on the lack of fee.

35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 C.F.R. § 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 C.F.R. § 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. § 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 C.F.R. § 1.17(l) or 1.17(m), regardless of whether the petition under 37 C.F.R. § 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 C.F.R. § 1.137 lacking the requisite petition fee.

As payment of the full petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of an abandoned application and petitioner has not made such a payment, the petition must be dismissed without consideration on the merits under § 1.137.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEONARD TACHNER, A
PROFESSIONAL LAW
CORPORATION
17961 SKY PARK CIRCLE
SUITE 38-E
IRVINE CA 92614

MAILED

MAR 12 2012

OFFICE OF PETITIONS

In re Application of	:	
Kamentser et al.	:	DECISION ON PETITION
Application No. 11/803,442	:	
Filed: May 14, 2007	:	
Atty Docket No. BOKAM-16	:	

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. §1.137(b) filed March 2, 2012.

The petition is **GRANTED**.

The above-identified application became abandoned effective September 24, 2010 for failure to file a reply to the non-final Office action mailed June 23, 2010. A courtesy Notice of Abandonment was mailed on July 19, 2011. By decision mailed November 7, 2011, the initial petition filed October 14, 2011 was dismissed without consideration on the merits. The petition did not include full payment of the new $930 petition fee.

On renewed petition, petitioner submitted the deficiency for full payment of the $930 petition fee. The initial petition included the required reply in the form of an amendment and the required statement of unintentional delay. No terminal disclaimer is required.

Technology Center AU 3717 has been advised of this decision. The application is, thereby, forwarded to the examiner for

consideration of the reply submitted on petition filed October 14, 2011.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 07 2011
OFFICE OF PETITIONS

MARK J. PANDISCIO
PANDISCIO & PANDISCIO, P.C.
470 TOTTEN POND ROAD
WALTHAM MA 02451-1914

In re Application of Ron Hesla Application No. 11/803,447 Filed: May 15, 2007 Attorney Docket No. HESLA-0102	: : : : :	DECISION ON PETITION

This is a decision on the petition, filed March 8, 2011, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely file a proper reply to the Notice mailed June 14, 2010. A Notice of Abandonment was mailed on December 17, 2010.

Applicant files the above petition and states that "A Notice of a Non-Responsive Amendment was mailed by Examiner Christopher J. Novosad on June 14, 2010 which indicated that the reply filed on May 28, 2010 (i.e., the May 25, 2010 Amendment) was not fully responsive to the prior Office Action because claims 11 and 13 improperly depended from a cancelled claim, i.e., cancelled claim 6, and accordingly, it was unclear to the Examiner how claims 11 and 13 were to be examined.

On July 8, 2010, Applicant mailed a response to the Examiner's communication of June 14, 2010 which noted that claims 11 and 13 had been previously withdrawn from further consideration as being directed to a non-elected species. Applicant also noted that if claims 11 and 13 were re-joined, Applicant believed that claims 11 and 13 should be examined as if those claims depended from claim 1."

The petition is granted because, 37 CFR 1.142(b) states: Claims to the invention or inventions not elected, if not canceled, are nevertheless withdrawn from further consideration by the examiner by the election, subject however to reinstatement in the event the requirement for restriction is withdrawn or overruled.

Therefore, since the claims are withdrawn from consideration by the examiner, they are not examined, so it matters not that they depend from a cancelled claim. Moreover, MPEP 707.07(j)(II) states:

> If a claim is otherwise allowable but is dependent on a canceled claim or on a rejected claim, the Office action should state that the claim would be allowable if rewritten in independent form.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 3641 for 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

Mr. Benjamin Aaron Adler
Adler & Associates
8011 Candle Lane
Houston, Texas 77071

MAILED
APR 05 2011
OFFICE OF PETITIONS

In re Application of	:	
FREDERICKSON et al.	:	DECISION GRANTING PETITION
Application No. 11/803,478	:	UNDER 37 CFR 1.137(b)
Filed: 15 May 2007	:	
Atty Docket No. D6490CIP2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 4 June 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed 27 October 2009 ("outstanding Office action"), which set a shortened statutory period of reply of three (3) months. No reply was sent, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application thus became abandoned on 28 January 2010, and a Notice of Abandonment was mailed 4 June 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the outstanding Office action, and a Request for Continued Examination, (2) a petition fee of $810.00, and (3) a Statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

The Power of Attorney filed June 4, 2010 is not acceptable as it has not been signed by all of the inventors or the assignee of the entire interest. *See* 3.7 CFR 1.32(b).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131m 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The file does not indicate a change of address has been properly submitted, although the address given on the petition differs from the address of record. Whereas a Power of Attorney and Correspondence Address has been submitted, it is not clear if it is proper as signatures from all the inventors are not apparent. 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 only to the address of record.

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 1643 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Don D. Cha
Hamilton Desanctis & Cha
547 Buena Vista Road
Golden, Colorado 80401

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.
11/803,515	05/15/2007	Mingwei Xu	P06807	7001

84306 7590 10/20/2010
Munck Carter/NSC
P.O. Drawer 800889
Dallas, TX 75380

EXAMINER
MENZ, LAURA MARY

ART UNIT	PAPER NUMBER
2813	

NOTIFICATION DATE	DELIVERY MODE
10/20/2010	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):

patents@munckcarter.com
munckcarter@gmail.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

MUNCK CARTER/NSC
P.O. Drawer 800889
Dallas, TX 75380

In re Application of Mingwei Xu et al. Application No.: 11/803515 Filed: May 15, 2007 Attorney Docket No.: P06807	: : : : : :	DECISION ON PETITION UNDER 37 CFR § 1.144

This is a decision on the petition filed on August 10, 2010 under 37 CFR 1.144 to reconsider the Restriction Requirement mailed on October 1, 2009.

Petitioner asserts that the restriction mailed on October 1, 2009 is in error because the identified species (claims) are not mutually exclusive but instead overlap in scope. In particular, Petitioner asserts that there is not mutual exclusivity if broader claim 1 covers the subject matter recited in narrow claims 7 and 14. Petitioner additionally asserts that since all of the elements of claim 1 appear in claims 7 and 14, no under examination burden exists.

The Election of Species Requirement mailed on October 1, 2009 identifies three species, with claims 1-6 reading on Species I, claims 7-13 reading on Species II, and claims 14-20 reading on Species III. A review of the specification and drawings indicates that only one embodiment is disclosed. Independent claims drawn to the same embodiment but of varying scope are not patentably distinct species. As indicated in MPEP 806.04(e):

> "Claims are definitions >or descriptions< of inventions. *Claims >themselves< are never species*. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a *specific species claim*)*>. Alternatively,< a claim may *>encompass< two or more of the disclosed embodiments** (and thus be designated *a generic or genus claim*). *Species * always >refer to< the * different embodiments >of the invention<*."

Furthermore, Petitioner is correct in that claim 1 is merely of a broader scope than claims 7 and 14. Claims 1-6 do not recite any features or characteristics that are not found in claims 7-13 or claims 14-20. Therefore, the species indicated in the Election of Species Requirement are not mutually exclusive as required by MPEP 806.04(f).

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the examiner for further action on the merits, including the examination of claims 7-20.

Telephone inquiries should be directed to Matthew Landau, Supervisory Patent Examiner, at (571)-272-1731.

Edward Lefkowitz
Acting Director
Patent Examining Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARD W CALLAN
NO. 705 PMB 452
3830 VALLEY CENTRE DRIVE
SAN DIEGO CA 92130

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Application of	:	
James Covosso Francis, et al.	:	
Application No. 11/803,554	:	DECISION ON PETITION
Filed: May 14, 2007	:	
Attorney Docket No. 21-131	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed June 14, 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 August 15, 2010. The Notice of Abandonment was mailed September 1, 2010.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/803,557	05/15/2007	Sin-Jae Lee	1235-275	7121

66547 7590 03/30/2012
THE FARRELL LAW FIRM, P.C.
290 Broadhollow Road
Suite 210E
Melville, NY 11747

EXAMINER
BAYAT, ALI

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
03/30/2012	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
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

THE FARRELL LAW FIRM, P.C.
290 Broadhollow Road
Suite 210E
Melville NY 11747

In re Application of	:	
Sin-Jae Lee	:	NOTICE OF WITHDRAWAL
Application No. 11/803,557	:	FROM ISSUE
Filed: April 5, 2004	:	UNDER 37 CFR 1.313
Attorney Docket No. 1235-275	:	

The above-identified application is withdrawn from issue after payment of the issue due to Unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Samir Ahmed at (571) 272-7413.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John LeGuyader, Director
Technology Center 2600

CC: Office of Publications:

Patent Clerk, South Tower, 8C15
Supervisory Correspondence Clerk, South Tower, 8C15

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/803,593	MITSUHASHI, MASATO	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				91.51	6	91.1	91.2						
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33	25.3				
C	1	2	P	1/34									
C	1	2	Q	1/68									
C	0	7	H	21/02									
C	0	7	H	21/04									
C	0	7	H	21/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 12/20/2010	Total Claims Allowed: 42
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☒ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1	27	31		61		91		121		151		181
2	2	28	32		62		92		122		152		182
	3	29	33		63		93		123		153		183
	4	30	34		64		94		124		154		184
	5	31	35		65		95		125		155		185
3	6	32	36		66		96		126		156		186
4	7	33	37		67		97		127		157		187
5	8	34	38		68		98		128		158		188
6	9	35	39		69		99		129		159		189
7	10	36	40		70		100		130		160		190
8	11	37	41		71		101		131		161		191
9	12	38	42		72		102		132		162		192
	13	39	43		73		103		133		163		193
10	14	40	44		74		104		134		164		194
11	15	41	45		75		105		135		165		195
12	16	42	46		76		106		136		166		196
13	17		47		77		107		137		167		197
14	18		48		78		108		138		168		198
15	19		49		79		109		139		169		199
16	20		50		80		110		140		170		200
17	21		51		81		111		141		171		201
18	22		52		82		112		142		172		202
19	23		53		83		113		143		173		203
20	24		54		84		114		144		174		204
21	25		55		85		115		145		175		205
22	26		56		86		116		146		176		206
23	27		57		87		117		147		177		207
24	28		58		88		118		148		178		208
25	29		59		89		119		149		179		209
26	30		60		90		120		150		180		210

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/803,594	MITSUHASHI, MASATO	
	Examiner	Art Unit	
	FRANK LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				91.51	435	6	91.1	91.2					
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33	25.3				
C	1	2	P	19/34									
C	1	2	Q	1/68									
C	0	7	H	21/02									
C	0	7	H	21/04									
C	0	7	H	21/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 9/9/2011	Total Claims Allowed: 17	
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s) 1	O.G. Print Fig. None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1	11	31		61		91		121		151		181
	2		32		62		92		122		152		182
	3	12	33		63		93		123		153		183
	4	13	34		64		94		124		154		184
	5	14	35		65		95		125		155		185
	6	15	36		66		96		126		156		186
	7	16	37		67		97		127		157		187
	8	17	38		68		98		128		158		188
	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
	11		41		71		101		131		161		191
	12		42		72		102		132		162		192
	13		43		73		103		133		163		193
	14		44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
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4	24		54		84		114		144		174		204
5	25		55		85		115		145		175		205
6	26		56		86		116		146		176		206
7	27		57		87		117		147		177		207
8	28		58		88		118		148		178		208
9	29		59		89		119		149		179		209
10	30		60		90		120		150		180		210

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IM IP LAW PLLC
P.O. BOX 355
SCARSDALE, NY 10583

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Frank Geshwind et al	:	
Application No. 11/803,675	:	DECISION ON PETITION
Filed: May 14, 2007	:	TO WITHDRAW
Attorney Docket No.: OWL202US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2011.

The request is **NOT APPROVED**.

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

The request is filed by R. Ross Viguet, on behalf of the practitioners of record associated with Customer Number 024972.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since a current correspondence address was not provided.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: R. Ross Viguet
Fulbright & Jaworski L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, TX 75201-2784

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 4/12/2011

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/803694 Patent No.: 7732570 B2

CofC mailroom date: 4/5/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

Acting SPE — 1644 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KRYSTINA MOTSINGER
23 MELTON ROAD
WINTERVILLE GA 30683

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of
Krystina Motsinger
Application No. 11/803,749
Filed: May 15, 2007
Title of Invention: ONLINE PERFORMANCE VENUE SYSTEM AND METHOD

ON PETITION

This is a decision on the petition filed October 1, 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 7, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned April 8, 2010. Accordingly, a Notice of Abandonment was mailed July 20, 2010.

This matter is being referred to Technology Center 2179 for appropriate action on the amendment filed October 1, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/803,772	05/16/2007	Richard D. Breault	C-3519	7149

34196 7590 06/28/2011
UTC FUEL CELLS, LLC
195 GOVERNOR'S HIGHWAY
SOUTH WINDSOR, CT 06074

EXAMINER
RHEE, JANE J

ART UNIT	PAPER NUMBER
1726	

MAIL DATE	DELIVERY MODE
06/28/2011	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
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wk

Mailed: 6/28/11

In re application of
Breault et al.
Serial No. 11/803,772
Filed: May 16, 2007
For: **FUEL CELL WITH ELECTROLYTE CONDENSATION ZONE**

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on May 17, 2011 to withdraw the Finality of the Office Action mailed April 27, 2011 and to grant Applicant's request for an interview dated February 10, 2011. Applicant requests that the final rejection be withdrawn as premature due to failure to conduct an interview.

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

The Final Office action did not introduce a new ground for rejection.

DECISION

The petition is **GRANTED-IN-PART**.

The withdrawal of the final rejection is denied and the request for an interview is granted.

The Examiner is directed to grant Applicant's request for an interview.

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

M.P. Williams
UTC FUEL CELLS, LLC
195 GOVERNOR'S HIGHWAY
SOUTH WINDSOR CT 06074

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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M. P. WILLIAMS
210 MAIN STREET
MANCHESTER CT 06042

MAILED

APR 18 2012

OFFICE OF PETITIONS

In re Application of
Richard D. Breault et al.
Application No. 11/803,772
Filed: May 16, 2007
Attorney Docket No. C-3519

: ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 23, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 28, 2011 for failure to timely reply to the Final Office Action mailed April 27, 2011. A response was filed June 17, 2011, but by Advisory Action of July 12, 2011, petitioner was advised that the response did not place the application in condition for allowance. Thereafter on February 1, 2012, a Notice of Abandonment was mailed.

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 1726 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MRS. CLEO CAMILLE PUTNAM
908 CURTIS DR.
ARLINGTON, TX 76012

MAILED
APR 04 2011
OFFICE OF PETITIONS
ON PETITION

In re Application of :
Cleo Camille Putnam :
Application No. 11/803,885 :
Filed: May 16, 2007 :
Attorney Docket No. :

This is in response to the communication, filed March 2, 2011, which is being treated as a petition under 37 CFR 1.181 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).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 1, 2010, 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 proposed reply must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). The amendment filed April 30, 2010 does not *prima facie* place the application in condition for allowance.

The Office record's show petitioner filed a RCE on June 14, 2010 with $270. The RCE fee is $405 (Small Entity). The Office mailed a Notice of Improper RCE on June 21, 2010.

Petitioner asserts that the Notice of Improper RCE dated June 21, 2010 was not received.

The Notice of Improper RCE state "The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice." Accordingly, the above-identified application became abandoned on July 2, 2010. A courtesy copy of the Notice of Improper RCE accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

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

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a courtesy copy of the Notice of Improper RCE mailed June 21, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 24 2011

OFFICE OF PETITIONS

LORUSSO & ASSOCIATES
PO BOX 21915
PORTSMOUTH NH 03802

In re Application of	:	
Zhenwu Lin	:	
Application No. 11/803,890	:	DECISION ON PETITION
Filed: May 16, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. ZLN-201	:	

This is a decision on the petition, filed March 7, 2011, a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 14, 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. § 22(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 24, 2011 accompanies this decision on petition.

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

This application is being forwarded to Technology Center 1776 for further processing.

/Kimberly Inabinet/

Kimberly Inabinet
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/803,890	05/16/2007	Zhenwu Lin	ZLN-201

CONFIRMATION NO. 8001

48388
LORUSSO & ASSOCIATES
PO BOX 21915
PORTSMOUTH, NH 03802

NONPUBLICATION RESCISSION LETTER

OC000000049410080

Date Mailed: 08/18/2011

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 11/24/2011.

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".

/kainabinet/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12-22-10**

TO SPE OF : ART UNIT **3714**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11803931** Patent No.: **7828648**

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: Approved

/David L Lewis/ — SPE

3714 — 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

TRASKBRITT, P.C. /SHUFFLE MASTER
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED
DEC 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Mark L. Yoseloff, et al.	:	
Application No. 11/803,980	:	DECISION GRANTING PETITION
Filed: May 15, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PA1882.AP.US	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 18, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OCT 13 2010

OFFICE OF PETITIONS

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

In re Patent No. 7,755,276
Issued: July 13, 2010
Application No. 11/804,011
Filed: May 15, 2007
Dkt. No.: ITMX-00029US1

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed September 13, 2010 requesting that the patent term adjustment be increased from 85 days to 134 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 122 days.

The above-identified application issued as U.S. Pat. No. 7,755,276 on July 13, 2010. The patent issued with a patent term adjustment of 85 days. The instant application for patent term adjustment was timely filed September 13, 2010. Patentees contest the reduction of 68 days in connection with the post-allowance submission filed May 7, 2010. Patentees assert that the correct period of reduction in this regard is 19 days.

Review of the record reveals that the correct period of reduction pursuant to 37 CFR 1.704(c)(10) in connection with the post-allowance submission is 20 days. The reduction commenced May 7, 2010, the date that the submission was filed, and ended May 26, 2010, the date that the response thereto was mailed.

Further review of the record reveals that the patent term adjustment is subject to further reduction of 11 days in connection with the reply filed October 1, 2007. In accordance with 37 CFR 1.704(b), the reduction commenced September 21, 2007, the day after the date that is three months after the date that the Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed, and ended October 1, 2007, the date that the reply to the Notice was filed.

In view thereof, the patent is entitled to an overall adjustment of 122 days (245 days under § 1.702 – 123 days of applicant delay under § 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 Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 122 days.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,755,276

DATED : July 13, 2010 **DRAFT**

INVENTOR(S) : Wang, 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 85 days

Delete the phrase "by 85 days" and insert -- by 122 days --

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED
OCT 20 2011
OFFICE OF PETITIONS

In re Application of :
David Kammer et al. :
Application No. 11/804,027 : DECISION ON PETITION
Filed: May 15, 2007 :
Attorney Docket No. **82594236** :

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

The 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 23, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 24, 2010.

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

Telephone inquiries concerning this decision should be directed to the 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

Decision Date : April 11, 2012

In re Application of :

Stephen Purvines

Application No : 11804078

Filed : 17-May-2007

Attorney Docket No : 810746.0047

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 11, 2012

The request is **APPROVED.**

The request was signed by Mark C. Young (registration no. 48670) on behalf of all attorneys/agents associated with Customer Number 27910 . All attorneys/agents associated with Cusotmer Number 27910 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	Mindy Bartel
Name2	Kurz-Kasch, Inc.
Address 1	3131 Newmark Drive, Suite 210
Address 2	
City	Miamisburg
State	OH
Postal Code	45342
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	11804078
Filing Date	17-May-2007
First Named Inventor	Stephen Purvines
Art Unit	3655
Examiner Name	TERRY CHAU
Attorney Docket Number	810746.0047
Title	Electromagnetic actuator

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 27910

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

10.40(c)(5)

Certifications

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

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

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

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

Name	Mindy Bartel Kurz-Kasch, Inc.
Address	3131 Newmark Drive, Suite 210
City	Miamisburg
State	OH
Postal Code	45342
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/mark young/
Name	Mark C. Young
Registration Number	48670

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HELEN ODAR WOLSTONCROFT
TYCO ELECTRONICS CORPORATION
4550 NEW LINDEN HILL ROAD, SUITE 140
WILMINGTON, DE 19808-2952

MAILED

AUG 24 2010

OFFICE OF PETITIONS

In re Application of :
Charles Dudley Copper :
Application No. 11/804,122 : ON PETITION
Filed: May 16, 2007 :
Attorney Docket No. E-EN-00079 (SPLG 1074US1)

This is a decision on the petition, filed August 23, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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]

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

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

This matter is being referred to Technology Center AU 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Jay J. Hoette
The Small Patent Law Group LLP
225 S. Meramec, Ste. 725
St. Louis, MO 63105

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/804,163	05/17/2007	Rodney W. Tyler	1030-026	8318

34060 7590 12/01/2011
MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

EXAMINER
MAYO-PINNOCK, TARA LEIGH

ART UNIT	PAPER NUMBER
3671	

NOTIFICATION DATE	DELIVERY MODE
12/01/2011	ELECTRONIC

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

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

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

PAIR@MichaelHaynes.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

NOV 30 2011

MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

In re Application of:	:	
TYLER, Rodney W.	:	
Application No. 11/804,163	:	**DECISION ON PETITION**
Filed: May 17, 2007	:	**UNDER 37 CFR 1.181**
For: DEVICES, SYSTEMS AND METHODS FOR	:	
CONTROLLING EROSION	:	

This is a decision in response to the petition filed September 24, 2008 requesting withdrawal of the finality of the Office action dated July 24, 2008. The delay in treating this petition is regretted.

The petition is **DISMISSED as MOOT.**

Petitioner requests withdrawal of the July 24, 2008 Office action "due to that Office Action's failure to address the substantial evidence of secondary considerations of non-obviousness provided by the Declaration submitted therewith."

A review of the application file shows that applicant filed a reply under 37 CFR 1.116 and a request for reconsideration concurrently with the instant petition. Applicant's response did not place the application in condition for allowance so an Advisory Action was mailed October 24, 2008. On December 23, 2008, applicant timely filed a Request for Continued Examination and the appropriate fee.

37 CFR 1.114(d) sets forth that "if an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered." Accordingly, the finality of the July 24, 2008 Office action was withdrawn and the submission filed on December 23, 2008 was entered and considered.

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

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

/TL/ 11/18/11

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
SEP 28 2010
OFFICE OF PETITIONS

BYIP, LTD.
P.O. BOX 1484
GENERAL POST OFFICE
HONG KONG HK HONG KONG

In re Application of	:	
Hin Shing YEUNG	:	
Application No. 11/804,218	:	DECISION ON PETITION
Filed: May 17, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **SIZ-0938-USPT**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 19, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 20, 2007.

The petition is not signed by a patent attorney of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kam Law appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Kam Law desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Kam Law, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the filing fee of $155, surcharge fee of $65, search fee of $255, examination fee of $110, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **KAM LAW**
JONES DAY
15 QUEENS ROAD- CENTRAL, 29th FLOOR
EDINBURGH TOWER – THE LANDMARK
HONG KONG CN CHINA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARL C. NESBITT
518 ETHEL AVENUE
HANCOCK MI 49930

MAILED

JAN 13 2012

OFFICE OF PETITIONS

In re Application of	:	
NESBITT, et al	:	
Application No. 11/804,299	:	DECISION ON PETITION
Filed: May 17, 2007	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 2, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 3, 2010. A Notice of Abandonment was mailed August 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election and amendment, (2) the petition fee of $930; 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) 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 1795 for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ERIC L. LANE
600 WEST BROADWAY, SUITE 2600
SAN DIEGO, CA 92101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-27-10 Paper No.: _____

TO SPE OF : ART UNIT 3655

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/804405 Patent No.: 7686724

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

FOR IFW FILES: Check code (Abstract)

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 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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: _____

/David D. Le/
SPE

3655
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-29-10

TO SPE OF : ART UNIT 3655

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/804465 Patent No.: 7686724

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

FOR IFW FILES: Should cofc be approved

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

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

FOR PAPER FILES:

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

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

Ennis Young LPE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

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

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

_____

_____

_____

SPE /David D. Le/ **ART UNIT** 3655

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/3/10 Paper No.: —

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/804415 Patent No.: 7745999B2

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: _____

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

AU 2829

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.
11/804,461	05/18/2007	Christine Konradi	04843/156003	9802

21559 7590 03/27/2012
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER
CHERNYSHEV, OLGA N

ART UNIT	PAPER NUMBER
1649	

NOTIFICATION DATE	DELIVERY MODE
03/27/2012	ELECTRONIC

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

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

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

patentadministrator@clarkelbing.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

March 26, 2012

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:	
Christine Konradi	:	**DECISION ON PETITION**
Application No. 11804461	:	
Filed: 05/18/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **04843/156003**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 18, 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 inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

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	11804545
Filing Date	18-May-2007
First Named Inventor	Trace Cawley
Art Unit	3775
Examiner Name	CHRISTIAN SEVILLA
Attorney Docket Number	33939/14
Title	Cervical plate locking mechanism and associated surgical method

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32642

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

10.40(b)(4)

Certifications

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

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

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

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 102983

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

Signature	/R. Whitney Johnson/
Name	R. Whitney Johnson
Registration Number	62997

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : February 13, 2012

In re Application of :

Trace Cawley

Application No : 11804545

Filed : 18-May-2007

Attorney Docket No : 33939/14

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed February 13, 2012

The request is **APPROVED**

The request was signed by R. Whitney Johnson (registration no. 62997) on behalf of all attorneys/agents associated with Customer Number 32642 . All attorneys/agents associated with Customer Number 32642 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 102983 .

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

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

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHOOK, HARDY & BACON LLP
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD
KANSAS CITY MO 64108-2613

In re Application of		AUG 18 2011
JONES, RONDA KAY	:	
Application No. 11/804,571	:	**DECISION ON PETITION**
Filed: May 18, 2007	:	
Attorney Docket No.: JSRK 160058	:	

This is a decision on the Petition To Withdraw Holding of Abandonment under 37 C.F.R. 1.181, received in the United States Patent and Trademark Office (USPTO) on July 25, 2011 for the above identified application.

The application was held abandoned for applicant's failure to timely pay the issue fee, as Required in the new Notice of Allowance and Fee(s) Due mailed March 29, 2011.

The petition is **DISMISSED.**

Any request for reconsideration of the decision, or as explained below, filing a petition seeking revival under 37 CFR 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The request to apply the issue fee to the new Notice could have been satisfied by simply Completing and returning the new Issue Fee Transmittal Form PTOL-85B.

Also, Petitioner appears to not have read the bold text in the new Notice of Allowance and Fee(s) Due, which states:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THE STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Failure to submit the PTOL-85B, Fee(s) Transmittal resulted in the proper abandonment

of the application. As previously advised the applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application

- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail:	Mail Stop Petitions Commissioner for Patents Office of Petitions 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 concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHOOK, HARDY & BACON LLP
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD
KANSAS CITY MO 64108-2613

MAILED
OCT 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Ronda Kay JONES	:	ON PETITION
Application No. 11/804,571	:	
Filed: May 18, 2007	:	
Atty. Docket No.: JSRK. 160058		

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Fee(s) Due mailed March 29, 2011 (Notice), which set a statutory period for reply of three (3) months. The application became abandoned June 30, 2011. A Notice of Abandonment was mailed July 14, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a payment of the issue and publication fees in accordance with the Notice mailed March 29, 2011, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

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

The application will be referred to Office of Data Management for further processing.

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

Date : June 24, 2011

Patent No. :7899664
Inventor(s) :Hiroyki Ishikura et al.
Issued :March 1, 2011
Title :INFORMATION PROCESSING APPARATUS, COMPUTER, INFORMATION
:PROCESSING SYSTEM, INFORMATION PROCESSING METHOD, AND
:PROGRAM FOR RECEIVING A CHARACTER STRING AND RETURNING
:CONVERSION CANDIDATES

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.

Applicant's request to change the filing date from what appears on the printed patent is not warranted entry as filed. The information as provided by applicant failed to include proper documentation in support of applicants claim. Accordingly, in this matter, the patent is considered in accordance with the records of the Patent and Trademark Office.

In view of the forgoing applicants' request in this matter is hereby denied. Further documentation to support applicants' claim should include a copy of filing receipt.

Further correspondence concerning this matter should be directed to the certificate of correction Branch. Any Telephone inquiry concerning this communication should be directed to Ms. A. Green at (571) 272-9005.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

Steven M. Jensen
Edwards Angell Palmer
& Dodge L.L.P.
P.O Box 55874
Boston, Massachusetts 02205

/arg

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

SEP 20 2010

James C. Wray
1493 Chain Bridge Road
Suite 300
McLean, VA 22101

In re Application of Lachlan Samuel Bateman et al. Application No. 11/804,698 Filed: May 18, 2007 For: SOLAR PANEL ROOF MOUNTING SYSTEM	DECISION ON THE PETITION FOR SUPERVISORY REVIEW AND WITHDRAWAL OF REQUIRED EXTENSION OF TIME FEE

This is a decision on applicant's petition, filed July 7, 2010, to withdraw the requirement for an extension of time fee. This petition is considered a petition for Supervisory Review under 37 CFR 1.181, and requires no petition fee.

The petition is **GRANTED**.

A review of the file record indicates that a restriction requirement was made on March 15, 2010. This action mistakenly set a Shortened Statutory Period (SSP) of 3 months for applicant to respond with an election. On May 13, 2010 the applicant responded with an election. On June 21, 2010 a Notice Requiring Extension of Time Fee was mailed out indicating that an appropriate extension of time fee was missing and was required.

Because the examiner set a 3 month SSP rather than the proper 30 day SSP, the applicant had until June 15, 2010 to respond to the restriction requirement before any extension of time would be needed. Therefore, the response filed May 13, 2010 was timely filed without any extension of time petition or fee. As a result, the June 21, 2010 Notice Requiring Extension of Time Fee was improper and is hereby **VACATED**.

The petition for withdrawal of the requirement for an extension of time is **GRANTED**. The application will be forwarded back to the examiner for an action on the merits based upon the election filed May 13, 2010.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.

Kathy Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

snm/snm: 9/1/10

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

CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

MAILED

SEP 09 2010

OFFICE OF PETITIONS

In re Application of :
Forster :
Application No. 11/804,715 :
Filed: May 17, 2007 :
Attorney Docket No. 129645 :
For: PIEZO-ELECTRIC TAG

ON PETITION

This is a decision on the petition under 37 CFR §1.47(b), filed July 8, 2010, which is being treated as a petition under 37 CFR §1.183 requesting waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor(s).[1]

The petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.67 is **granted**.

Petitioner, Mineral Lassen LLC, has established that copies of the above-identified application, January 15, 2010 amendment, and a supplemental reissue declaration were mailed to the sole inventor, Ian J. Forster, and that he did not respond to the request that he sign the supplemental reissue declaration and return it. In view of the constructive refusal by the sole inventor to sign the declaration, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental reissue declaration filed July 8, 2010. It is noted that Attorney Kevan L. Morgan signed the supplemental declaration on behalf of Mineral Lassen LLC, the assignee of record.

The current petition fee associated with the filing of a petition under 37 CFR 1.183 is $400.00. Petitioner has paid only $200.00. Deposit account no. 03-1740 will be charged the $200.00 balance due.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

This application is being forwarded to Technology Center G.A.U. 2612 for further examination.

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[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

Telephone inquiries related 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
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

FOLEY AND LARDNER, LLP
3000 K STREET NW, SUITE 500
WASHINGTON, DC 20007

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of
Dorian BEVEC
Application No. 11/804,780
Filed: May 21, 2007
Attorney Docket No. **47012-P002WUSD1**

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 20, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **FOLEY AND LARDNER, LLP** has been revoked by the assignee of the patent application on November 2, 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: **WINSTEAD PC**
P.O. BOX 50784
DALLAS, TX 75201

cc: **MONDOBIOTECH AG**
MURSTRASSE 18
STANS, SWITZERLAND 6371

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARDS ANGELL
PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED
JAN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Dee, et al.	:	
Application No. 11/804,817	:	DECISION
Filed: 21 May, 2007	:	
Attorney Docket No. 68177(54734)	:	

This is a decision on the petition filed on 3 August, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] *In the event that such an inquiry has not been made, Petitioner* ***must*** *make such an inquiry.*

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the Office.*

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

As to the Allegations
of Unintentional Delay

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

[1] See 37 C.F.R. §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

BACKGROUND

The record reflects as follows:

Counsel failed to reply timely and properly to the non=final Office Action mailed on 12 January, 2010, with reply due absent extension of time on or before 12 April, 2010.

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

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

On 3 August, 2010, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, a reply in the form of a continuation application (Application No. 12/828529), and made the statement of unintentional delay. (Petitioner's recitation of an averred former authority to charge fees such as that required for extension of time is inappropriate in light of Petitioner's failure to invoke that authority prior to abandonment and/or the expiration of the statutory period.)

As noted above, 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.[2] In the event that such an inquiry has not been made, Petitioner **must** make such an inquiry.

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner **must** notify the Office.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[2] See 37 C.F.R. §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

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).[4]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5]))

As to Allegations of Unintentional Delay

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

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

CONCLUSION

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

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 C.F.R. §1.53(b).

The instant application is released to Technology Center/AU 1774 in due course(only for such processing as is required for establishment of continuity).

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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).

[4] 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.

[5] 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.

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

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

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

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeremy Paul Lawrence Edwards	:	
Application No. 11/804,862	:	DECISION ON PETITION
Filed: May 21, 2007	:	
Attorney Docket No. **085707.45725**	:	

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 2, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one(1) month extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 3, 2011.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3753 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PAUL L. MARSHALL
DELPHI TECHNOLOGIES, INC.
MAIL CODE 480410202
P.O. BOX 5052
TROY, MI 48007

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Gary L. Ballard et al :
Application No. 11/804,885 : ON PETITION
Filed: May 21, 2007 :
Attorney Docket No. 89190.056306/DP-315392 :

This is a decision on the petition filed April 26, 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 December 13, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 14, 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.

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) 272-3210.

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
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In re Application of
Arthur V. Oprandi

Application No. 11804910

Filed: May 21,2007

Attorney Docket No. P-1920-CIP

: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 17-APR-2012 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

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

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

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

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

Application Information

Application Number	11/804,910	Confirmation Number	2025	Filing Date	2007-05-21
Attorney Docket Number (optional)	P-1920 CIP	Art Unit	3761	Examiner	Benedict Hanrahan
First Named Inventor	Arthur V. Oprandi				
Title of Invention	Disposable Urine Control Device				

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

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

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

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

Given Name	Middle Name	Family Name	Suffix
Arthur	V.	Oprandi	

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

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

● (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Charles J. Prescott/	Date (YYYY-MM-DD)	2012-04-17
Name	Charles J. Prescott	Registration Number	30316

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEIL STEINBERG
2300 M STREET, N.W., Suite 800
WASHINGTON DC 20037

MAILED
DEC 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Markus Lutz et al.	:	
Application No. 11/804,912	:	DECISION ON PETITION
Filed: May 21, 2007	:	
Attorney Docket No. **SITI/0032**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 15, 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 October 16, 2009.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Since the above-identified application is a utility or plant application that was filed before June 8, 1995, 37 CFR 1.137(d) requires a terminal disclaimer is not required. Therefore, the terminal disclaimer and the $140 fee filed with the instant petition is unnecessary and will not be entered. Petitioner may request a refund of this $140 fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2892 for appropriate action by the Examiner in the normal course of business on the reply received.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NEIL STEINBERG
2300 M STREET, N.W., Suite 800
WASHINGTON DC 20037

MAILED
APR 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Markus Lutz et al.	:	
Application No. 11/804,912	:	DECISION ON PETITION
Filed: May 21, 2007	:	
Attorney Docket No. **SITI/0032**	:	

This is a corrected decision in response to the request filed January 25, 2011. A petition under the unintentional provisions of 37 CFR 1.137(b), was filed September 1, 2010, to revive the above-identified application.

As noted in the previous decision mailed December 20, 2010, the application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 15, 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 October 16, 2009.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

DISCUSSION ON THE REQUEST TO CORRECT ERRORS IN DECISION THE PREVIOUS MAILED DECEMBER 20, 2010.

Petitioner has stated in the request that "[f]irst the Decision to grant the petition erroneously states that the above-referenced application was filed before June 8, 1995. (See, Decision on Petition, page 2, 1st paragraph). However, the above-referenced application was filed on May 21, 2007 -- i.e., after June 8, 1995. As such, Petitioner respectfully requests the Decision to grant the petition be corrected." Petitioner also stated that "[s]econd, the Decision to grant the petition states that the terminal disclaimer (and fee) filed/submitted with the Petition was unnecessary. (See, Decision

on Petition, page 2, 1st paragraph). However, it is believed that a terminal disclaimer is/was necessary and should be recorded against the above-referenced application."

A terminal disclaimer under 37 CFR 1.137(d) is required when a utility or plant application is filed on or before June 8, 1995. Therefore, since the application was filed on May 21, 2007, the terminal disclaimer filed on September 1, 2010, is unnecessary and will not be entered.

It is acknowledged that the statement in the previous decision as to whether the person signing the statement of unintentional delay was in a position or first hand knowledge of the facts and circumstances of the delay was incorrect.

It is also noted that the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any confusion resulting from the previous decision is sincerely regretted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2892 for appropriate action by the Examiner in the normal course of business on the reply received.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Aaron Partridge
SiTime Corporation
990 Almanor Avenue
Suite 200
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,961,427 B2
Ser. No. : 11/804,979
Inventor(s) : Dorbeck et al.
Issued : Jun. 14, 2011
Title : HIGH PERFORMANCE COMPUTER HARD DISK DRIVE WITH A CARBON OVERCOAT AND METHOD OF IMPROVING HARD DISK PERFORMANCE
Docket No. : 1692-006
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this 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
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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Patent No. 7,961,427 :
Issue Date: June 14, 2011 :
Application No. 11/804,979 : DECISION ON PETITION
Filed: May 22, 2007 : UNDER 37 FCR 3.81
Attorney Docket No. 1692-006 :

This is a decision on the Petition Requesting Correction of Assignee under 37 C.F.R. § 3.81(b), filed February 9, 2012, requesting correction of the Title Page of the subject patent, via a Certificate of Correction under 37 CFR 1.323. A completed Certificate of Correction form was previously filed on August 26, 2011.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests that the Title Page of the subject patent be corrected, pursuant to 37 CFR 3.81(b), to include the name and address of second Assignee, UCHICAGO ARGONNE, LLC, Chicago, IL. Accordingly, petitioner requests that a Certificate of Correction be issued to add the erroneously omitted second assignee 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 in 37 CFR 1.20(a), and $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been paid. Further, Office assignment records are consistent with the requested correction. Accordingly, as 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 previously submitted on August 26, 2011.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The matter is being referred to the Certificate of Corrections Branch for processing of a Certificate of Correction in US Patent 7,961,427 adding UCHICAGO ARGONNE, LLC, Chicago, IL, as a second assignee to the Title Page thereof in accordance with the Certificate of Correction form PTO/SB/44 previously submitted on August 26, 2011.

Brian W. Brown
Petitions Examiner
Office of Petitions

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OCT 19 2011
OFFICE OF PETITIONS

ROBERT D SHEDD PATENT OPERATIONS
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON NJ 08543-5312

In re Application of	:	
Le Roy, et al.	:	
Application No. 11/805,028	:	DECISION ON PETITION
Filed: May 22, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. PF060068	:	

This is a decision on the "PETITION TO REQUEST CORRECT FILING DATE AFTER NOTICE OF ALLOWANCE", filed September 12, 2011, which is being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of European Application No. 06300542.5, filed June 1, 2006.

The petition is **DISMISSED**.

Applicants filed the application on May 22, 2007. Included with the filing was a 37 CFR 1.63 declaration, claiming foreign priority under 35 USC 119 to European Application No. 06300542.5, which applicants identified as having been filed on June 21, 2006. Applicants have filed the instant petition, stating that the filing date of the European application is actually June 1, 2006, and have requested entry of the concurrently filed ADS to correct this typographical error.

37 CFR 1.55(a)(1)(i) states that a foreign priority claim must be submitted 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. In addition, 37 CFR 1.55(a)(1)(i) states that the claim must identify the foreign application "by specifying the application number, country (or intellectual property authority), **day, moth, and year of its filing**" (emphasis added). Accordingly, as there was no proper reference to the foreign application submitted within the above time period, applicants must submit an unintentionally delayed claim for priority pursuant to 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.

Here, petitioner has not met requirement (4) above.

The petition fee of $1410 has been charged to Deposit Account No. 07-0832, as authorized. No additional petition fee is due on renewed petition.

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 fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ROBERT D SHEDD PATENT OPERATIONS
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON NJ 08543-5312

In re Application of	:	
Le Roy, et al.	:	
Application No. 11/805,028	:	DECISION ON PETITION
Filed: May 22, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. PF060068	:	

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. 1.55(c) TO REQUEST CORRECT FILING DATE AFTER NOTICE OF ALLOWANCE", filed October 31, 2011, which is being treated as a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of European Application No. 06300542.5, filed June 1, 2006.

The petition is **DISMISSED**.

Applicants filed the application on May 22, 2007. Included with the filing was a 37 CFR 1.63 declaration, claiming foreign priority under 35 USC 119 to European Application No. 06300542.5, which applicants identified as having been filed on June 21, 2006. Applicants have filed the instant petition, stating that the filing date of the European application is actually June 1, 2006, and have requested entry of the concurrently filed ADS to correct this typographical error.

The issue fee in this case was paid on October 10, 2011. Therefore, as the printing process is already underway (the application is scheduled to issue on November 22, 2011), submission of a certificate of correction (along with the $100 fee) will be required as a condition for granting the petition under 37 C.F.R. §1.55(c).

Any renewed petition and requested certificate of correction should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Decision Date : March 29,2011

In re Application of :

Abdalla Naem

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11805054

Filed : 22-May-2007

Attorney Docket No : 100-32002 (P06825-F2)

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed March 29,2011 , 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 2826 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	11805054
Filing Date	22-May-2007
First Named Inventor	Abdalla Naem
Art Unit	2826
Examiner Name	KEVIN QUINTO
Attorney Docket Number	100-32002 (P06825-F2)
Title	FUSE TARGET AND METHOD OF FORMING THE FUSE TARGET IN A COPPER PROCESS FLOW

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	/Mark C Pickering/
Name	Mark C. Pickering
Registration Number	36239

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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Brooke Picotte	:	
Application No. 11/805,084	:	DECISION ON PETITION
Filed: May 22, 2007	:	TO WITHDRAW
Attorney Docket No. 048763/329250	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 1, 2011.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because no proper forwarding address was provided. The request to change the correspondence address should be that of the: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has intervened in this application then a Statement under 37 CFR 3.73(b), or a copy of the actual assignment must be submitted with a renewed request. The most current address of the inventor/assignee is needed.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHARLOTTE NC 28280-4000

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Brooke Picotte	:	
Application No. 11/805,084	:	DECISION ON PETITION
Filed: May 22, 2007	:	TO WITHDRAW
Attorney Docket No. 048763/329250	:	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 April 21, 2011.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Todd M. Hess, on behalf of all attorneys/agents associated with customer number 00826. All attorneys/agents associated with customer number 00826 have been withdrawn.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brooke Picotte
46 Perry Street #2
New York, NY 10014-2704

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/805,084	05/22/2007	Brooke Picotte	048763/329250

CONFIRMATION NO. 1322

POWER OF ATTORNEY NOTICE

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

OC000000047740947

Date Mailed: 05/18/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/21/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Ceruti et al.	:	
Application No. 11/805,173	:	DECISION ON PETITION
Filed: May 22, 2007	:	
Attorney Docket No. 2376.2123-000	:	

This is a decision on the petition to revive unavoidably abandoned application under 37 CFR 1.137(a), filed March 23, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed June 15, 2010, which set a one (1) month statutory period for reply. A Notice of Abandonment was mailed on February 16, 2011.

Petitioner asserts that the Office action dated June 15, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.

(2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The instant petition does not comply with items (1) above.

With regard to item (1), although petitioner has provided a detailed description of the system used to record receipt of Office actions, the requisite statement regarding the reliability of said system has not been provided.

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
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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED
NOV 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Ceruti et al.	:	
Application No. 11/805,173	:	DECISION ON PETITION
Filed: May 22, 2007	:	
Attorney Docket No. 2376.2123-000	:	

This is a decision on the petition, filed October 21, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Office action mailed June 15, 2010. A Notice of Abandonment was mailed on February 16, 2011.

Petitioner asserts that the Office action dated June 15, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.

(2) A statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's

record(s) required to show non-receipt of the Office action should include the master docket for the firm.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center 2441 for further processing of the Reply to Notice of Non-Compliant Amendment, previously filed on March 23, 2011.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/805,217	05/21/2007	James Turkson	MOF.105PTXC1	1344

7590 05/17/2011
SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

EXAMINER
JEAN-LOUIS, SAMIRA JM

ART UNIT	PAPER NUMBER
1627	

NOTIFICATION DATE	DELIVERY MODE
05/17/2011	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
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Alexandria, VA 22313-1450
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May 17, 2011

SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

In re Application of	:	
James Turkson et al.	:	**DECISION ON PETITION**
Application No. 11805217	:	
Filed: 5/21/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. MOF.105PTXC1	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 21, 2007.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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May 18, 2011

Thomas C. Hughes
Tyco Healthcare Group LP
555 Long Wharf Drive
MailStop 8 N-1
New Haven, CT 06511

Patent No.	: 7,918,868 B2
Ser. No.	: 11/805,223
Inventor(s)	: Peter Marshall, et al.
Issued	: April 5, 2011
Docket No.	: H-US-01411 (1700-8)
Title	: **METHOD AND APPARATUS FOR MENISCAL REPAIR**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TYCO HEALTHCARE GROUP LP
D/B/A COVIDIEN
555 LONG WHARF DRIVE
MAIL STOP 8-N1, LEGAL DEPARTMENT
NEW HAVEN, CT 06511

MAILED
JUL 26 2011
OFFICE OF PETITIONS

In re Patent No. 7,918,868 :
Issue Date: April 5, 2011 :
Application No. 11/805,223 : ON PETITION
Filed: May 22, 2007 :
Attorney Docket No. H-US-01411 :

This is a decision on the petition filed June 17, 2011, 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

MAILED
NOV 19 2010
OFFICE OF PETITIONS

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE NW
WASHINGTON DC 20036

In re Application of	:	
McClellan, et al.	:	
Application No. 11/805,238	:	ON PETITION
Filed: May 22, 2007	:	
Attorney Docket No. 16874.0002		

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 10, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 26, 2010. This Notice set a statutory period for reply of three months. No issue fee having been received, the application became abandoned on July 27, 2010. The Office mailed a Notice of Abandonment on August 16, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Doc Code: PET.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	11805330
Filing Date	23-May-2007
First Named Inventor	Raymond de Beasley
Art Unit	3621
Examiner Name	JAMES REAGAN
Attorney Docket Number	1015.00001
Title	Privacy protection system and method

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 97510

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Raymond de Beasley de Beasley Group, LLC
Address	7130 Indian Ridge Trail
City	Dallas
State	TX
Postal Code	75232
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/James L. Baudino/
Name	James L. Baudino
Registration Number	43486

UNITED STATES 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 2,2011

In re Application of :

Raymond de Beasley

Application No : 11805330

Filed : 23-May-2007

Attorney Docket No : 1015.00001

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 June 2,2011

The request is **APPROVED.**

The request was signed by James L. Baudino (registration no. 43486) on behalf of all attorneys/agents associated with Customer Number 97510 . All attorneys/agents associated with Cusotmer Number 97510 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	Raymond de Beasley
Name2	de Beasley Group, LLC
Address 1	7130 Indian Ridge Trail
Address 2	
City	Dallas
State	TX
Postal Code	75232
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
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GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P. O. BOX 692289
HOUSTON TX 77269-2289

MAILED
AUG 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Claus et al.	:	
Application No. 11/805,369	:	DECISION GRANTING PETITION
Filed: May 23, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 121935-1 (GERD:0721/YOD)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 18, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application as set forth the Amendment filed concurrently with the instant petition and the Application Data Sheet (ADS) filed July 20, 2011.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed

nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A reference to add the prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. Application No. 10/744,882 was not referenced in the first sentence of the specification upon filing, however the amendment submitted with the instant petition references Application No. 10/744,882. Therefore, the incorporation by reference sentence included in the amendment is not proper for Application No. 10/744,882. However, the Office will accept the priority claim as shown in the application data sheet (ADS), filed July 20, 2011.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. 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 Art Unit 2624 for appropriate action on the Amendment filed July 18, 2011 and the ADS filed July 20, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/805,369	05/23/2007	2624	1000	121935-1 (GERD:0721/YOD)	20	3

CONFIRMATION NO. 3119

CORRECTED FILING RECEIPT

41838
GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P. O. BOX 692289
HOUSTON, TX 77269-2289

OC000000049452884

Date Mailed: 08/22/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Bernhard Erich Claus, Niskayuna, NY;
John Patrick Kaufhold, Arlington, VA;

Assignment For Published Patent Application

General Electric Company

Power of Attorney: The patent practitioners associated with Customer Number 41838

Domestic Priority data as claimed by applicant

This application is a CIP of 10/744,882 12/23/2003 PAT 7,653,229

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: 08/22/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/805,369**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Quantitative image reconstruction method and system

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/805,425	05/23/2007	Sanjiv S. Gambhir	221907-1110	3475

7590 10/14/2010
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

EXAMINER
MONSHIPOURI, MARYAM

ART UNIT	PAPER NUMBER
1656	

MAIL DATE	DELIVERY MODE
10/14/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

October 13, 2010

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

In re Application of	:	
Sanjiv S. Gambhir, et al	:	**DECISION ON PETITION**
Application No. 11805425	:	
Filed: 03/10/2005	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **STAN-348 (S02-231)**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 23, 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.

/Kimberly Terrell/
Manager
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

KEVIN LYNN WILDENSTEIN
9400 Holly Avenue NE
Building 4H
Albuquerque, NM 87122

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Saig, et al.	:	
Application No. 11/805,452	:	DECISION ON PETITION
Filed: May 23, 2007	:	TO WITHDRAW
Attorney Docket No. IP SCREENING	:	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 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Kevin Lynn Wildenstein on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Michael Saig at the address indicated below.

There is an outstanding Office action mailed June 2, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Michael Saig**
2762 Lookout Ridge Drive
Las Cruces, NM 88011

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
11/805,452	05/23/2007	Michael Saigh	IP SCREENING

CONFIRMATION NO. 3400

POWER OF ATTORNEY NOTICE

34534
KEVIN LYNN WILDENSTEIN
9400 HOLLY AVENUE NE
BUILDING 4H
ALBUQUERQUE, NM 87122

OC000000043369111

Date Mailed: 09/07/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

February 22, 2012

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA GA 30339

In re Application of	:	
GAMBHIR, SANJIV S.	:	**DECISION ON PETITION**
Application No. 11/805,460	:	
Filed: 05/23/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 221907-1100	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 23, 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, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

"The 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 requirements above. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK,NY 10017

In re Application of	:	
Bo XIONG, et *al.*	:	
Application No. 11/805,604	:	DECISION ON PETITION
Filed: May 24, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **12108-002-999**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 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 2, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU2473 for appropriate action by the Examiner in the normal course of business on the reply received.

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

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Andras Kuthi, et al.	:	
Application No. 11/805,607	:	DECISION ON PETITION
Filed: May 23, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. LAM2P593	:	

This is a decision on the petition, filed August 9, 2010, 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 September 14, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 16, 2010 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center Art Unit 1716 for examination in due course.

Terri Johnson
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
11/805,607	05/23/2007	Andras Kuthi	LAM2P593

CONFIRMATION NO. 3467

25920
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

NONPUBLICATION RESCISSION LETTER

OC000000043390020

Date Mailed: 09/08/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/16/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Crockett & Crockett, P.C.
26020 ACERO
Suite 200
Mission Viejo, CA 92691

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Thomas L. Grey et al.	:	
Application No. 11/805,682	:	DECISION ON PETITION
Filed: May 23, 2007	:	TO WITHDRAW
Attorney Docket No. 212/894	:	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 20, 2011.

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 Crockett & Crockett, P.C., has been revoked by the assignee of the patent application on January 31, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kilpatrick Townsend & Stockton, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/31/10

TO SPE OF : ART UNIT 2465

SUBJECT : Request for Certificate of Correction for Appl. No 11/805702.: 7724684

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Approved John Pezzlo

9/2/2010

/Jayanti K Patel/ 2465

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

THE WATSON INTELLECTUAL PROPERTY GROUP, PLC
3133 HIGHLAND DRIVE
SUITE 200
HUDSONVILLE, MI 49426

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Anthony Senagore, et al.	:	
Application No. 11/805,724	:	DECISION ON PETITION
Filed: May 24, 2007	:	
Attorney Docket No. MAR-071535	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2011, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

This application became abandoned for failure to submit corrected formal drawings on or before June 11, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 11, 2010. Accordingly, the date of abandonment of this application is June 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The drawings have been approved by the USPTO draftsperson.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline at 571-272-4200.

This application is being referred to Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCCARTER & ENGLISH, LLP NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

MAILED
MAY 3 1 2011
OFFICE OF PETITIONS

In re Application of
Ira MARLOWE
Application No. 11/805,799
Filed: May 24, 2007
Attorney Docket No. **99879-00027**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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.

The request was signed by Michael R. Friscia 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 at the address below until otherwise properly notified by 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: **IRA M. MARLOWE**
BLITZSAFE OF AMERICA, INC.
33 HONECK STREET
ENGLEWOOD, NJ 07631

UNITED STATES 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: 10/07/10

Patent No. : 7747683 B2
Ser. No. : 11/805,841
Inventor(s) : **Garcia-Martinez , et al.**
Issued : 04/20/10
Title : **ANTIBODIES TO CD83**
Docket No. : **60117-255**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

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

Date: 10/20/10

Patent No. : 7700740 B2
Ser. No. : 11/805,841
Inventor(s) : **Garcia-Martinez , et al.**
Issued : **April 20, 2010**
Title : **ANTIBODIES TO CD83**
Docket No. : **60117-255**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

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

DAVIS WRIGHT TREMAINE, LLP/SEATTLE
1201 THIRD AVENUE, SUITE 2200
SEATTLE WA 98101-3045

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Patent No. 7,700,740 :
Application No. 11/805,841 :
Filed: May 23, 2007 : ON PETITION
Issued: April 20, 2010 :
Attorney Docket No. 60117-255 :

This is a decision on the petition filed October 29, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
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

MAILED

SEP 09 2010

OFFICE OF PETITIONS

EDWIN L. HARTZ
619 MAIN STREET, SUITE 115
GRAND JUNCTION, CO 81501

In re Application of Peter M. Kearl, et al. Application No. 11/805,906 Filed: May 25, 2007 Attorney Docket No.: K14:1072	: : : : :	ON PETITION

This is a decision in response to the petition, filed June 21, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 8, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 9, 2010. On June 21, 2010, the present petition was filed. A Notice of Abandonment was subsequently mailed on June 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

It is noted that the present petition included a 3-month extension of time. However, extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired, i.e.

March 9, 2010. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $555 extension fees submitted with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 3672 for appropriate action by the Examiner in the normal course of business on the reply received June 21, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: EDWIN L. HARTZ
4973 SINGING HILLS DRIVE
BANNING, CA 92220

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEVEN SMYRSKI- KLA-TENCOR CORP.
JOINT CUSTOMER NUMBER
STEVEN W. SMYRSKI, ESQ.
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405-6118

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Joseph J. ARMSTRONG, et *al.*	:	
Application No. 11/805,907	:	DECISION ON PETITION
Filed: May 25, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **KLAC0134**	:	

This is a decision on the petition, filed July 7, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 23, 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 of June 10, 2010 accompanies this decision on petition.

It is noted that a response to the non-final Office action mailed May 7, 2009 has been received along with a one month extension of time. The reply has been made of record in the application and will be forwarded to the examiner for review in due course.

This application is being forwarded to Technology Center Art Unit 2893 for consideration of the response filed March 31, 2011.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request Form

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
11/805,907	05/25/2007	J. Joseph Armstrong	KLAC0134

CONFIRMATION NO. 4072

83516
STEVEN SMYRSKI- KLA-TENCOR CORP.
JOINT CUSTOMER NUMBER
STEVEN W. SMYRSKI, ESQ.
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405-6118

NONPUBLICATION RESCISSION LETTER

OC000000045097802

Date Mailed: 12/22/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/31/2011.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/magraves/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

04-15-11

Doc Code: PET.RELIEF
Document Description: Certification and Request for Disaster Relief

PTO/SB/425 (03-11)

OPAP
APR 13 2011
IAP11
PATENT & TRADEMARK OFFICE

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): 11/805,909	Patent Number (if applicable):
First Named Inventor: Chun-Hsien Wu	Title of Invention: Method and apparatus for variable speed ...

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.

AU506018. ALP/NE. 10/AUF

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 Yasuo Muramatsu	Date April 11, 2011
Name (Print/Typed) Yasuo Muramatsu	Practitioner Registration Number 38,684

Note: *Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☐ *Total of _____ forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MURAMATSU & ASSOCIATES
SUITE 310
114 PACIFICA
IRVINE CA 92618

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Chun-Hsien Wu	:	
Application No. 11/805,909	:	DECISION ON PETITION
Filed: May 25, 2007	:	
Attorney Docket No. ALPINE.101AUS	:	

This is a decision on the request filed April 13, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 7 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 3663 for re-mailing the Office action of December 7, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED

NOV 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Shelley J. Spector	:	
Patent No. 7,965,995	:	DECISION DISMISSING PETITIONS
Issued: 06/21/2011	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Application Number: 11/805,951	:	
Filing Date: 05/25/2007	:	
Attorney Docket Number: 25139.004	:	

This is a decision on the petition, filed on October 7, 2011, which is treated as a petition under 37 CFR 1.78(a)(3) and (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 365(c), 120, and 119(e) for the benefit of priority to the prior-filed nonprovisional, international, and provisional applications set forth in the concurrently filed application data sheet, by way of a certificate of correction.

The petition under 37 CFR 1.78(a)(3) and (a)(6) is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

In this regard, it is noted that intermediate Application No. 10/509,263, which is a national stage application under 35 U.S.C. 371 of international Application No. PCT/US2004/007959, filed on March 16, 2004, and which issued as U.S. Patent No. 7,224,957 on May 29, 2007, failed to properly claim benefit of prior-filed provisional Application No. 60/455,308, filed on March 17, 2003. Specifically, Application No. 10/509,263 does not contain a specific reference to the provisional application in compliance with 37 CFR 1.78(a)(5)(iii).

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Accordingly, Application No. 10/509,263 must be amended to contain a proper reference to the provisional application before the present petition under 37 CFR 1.78(a)(6) can be granted.

However, 35 U.S.C.§ 119(e) requires a claim for the benefit of a prior filed provisional application may be submitted during the pendency of the later-filed application. As Application No. 10/509,263 issued as U.S. Patent No. 7,224,907 on May 29, 2007, the application is no longer pending and cannot be revived.

As noted in MPEP 1402, the courts have not addressed the question of correction of the failure to adequately claim benefit under 35 U.S.C. 119(e) in the application (which became the patent to be reissued) via reissue. Where the application, which became the patent to be reissued, was filed on or after November 29, 2000, reissue may be employed to correct an applicant's mistake by adding or correcting a benefit claim under 35 U.S.C. § 119(e). A petition under 37 CFR 1.78(a)(6) for an unintentionally delayed claim under 35 U.S.C. § 119(e) would not be required in addition to filing a reissue application.

Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. § 119(e)(1) to state that:

> No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section during the pendency of the application.

See Fontijn v. Okamoto, 518 F.2d 610, 622, 186 USPQ 97, 106 (CCPA 1975) ("a patent may be reissued for the purpose of establishing a claim to priority which was not asserted, or which was not perfected during the prosecution of the original application").The court in Fontijn held that 35 U.S.C. 251 was sufficiently broad to correct a patent where the applicant failed to assert or failed to perfect a claim for foreign priority during the prosecution of the original application even though 35 U.S.C. 119(b) at that time required a claim and a certified copy of the foreign application to be filed before the patent is granted. **Similarly, the Office may grant a reissue for adding or correcting a benefit claim under 35 U.S.C.119(e) that requires the benefit claim to a provisional application be submitted during the pendency of the application.**

Accordingly, until the benefit claim is resolved in the intermediate application, the present petition must be dismissed.

Lastly, it is noted that the PCT application number is miscaptioned in the certificate of correction filed with the subject petition. A new certificate of correction which correctly identifies the PCT application must be submitted with any renewed petition.

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

A reply may also be filed via the EFS-Web system of the USPTO.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
DEC 19 2011
OFFICE OF PETITIONS

DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON TX 77054

In re Application of	:	
John Larry Perkins	:	
Application No. 11/805,973	:	ON PETITION
Filed: May 26, 2007	:	
Attorney Docket No. DMJ20070228	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 12, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 14, 2009. The Notice of Abandonment was mailed May 8, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

A $635 partial payment of the issue fee was received. There is still $235 due to complete the payment of the issue fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON TX 77054

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Application of	:	
John Larry Perkins	:	
Application No. 11/805,973	:	DECISION ON PETITION
Filed: May 26, 2007	:	
Attorney Docket No. DMJ20070228	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 4, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 12, 2009. Accordingly, the date of abandonment of this application is April 14, 2009. The Notice of Abandonment was mailed May 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $870 and the publication fee of $300, (2) the petition fee of $930; 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
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

MAILED

APR 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Seiji Sakakibara	:	
Application No. 11/806,075	:	DECISION GRANTING PETITION
Filed: May 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SAKA3016/GAL	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed March 31, 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 15, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/28/11

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/806,270 Patent No.: 7,817,385

CofC mailroom date: 12/09/10

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

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
❑	**Approved in Part**	Specify below which changes **do not** apply.
❑	**Denied**	State the reasons for denial below.

Comments: _____

/Jared Fureman/ 2836
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/806,371	05/31/2007	Ryuji Sakai	04329.4194	7230

7590 01/12/2011
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
BULLOCK JR, LEWIS ALEXANDER

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
01/12/2011	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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.
11/806,409	05/31/2007	Makoto Yamashita	008312-0361568	7192

7590 06/28/2011
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
ZHANG, LESHUI

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
06/28/2011	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of
Shiri Kadambi, et al.
Application No. 11/806,427
Filed: May 31, 2007
Attorney Docket No. 20715US02

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 7, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2472 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue NE
Washington DC 20005

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of	:	
LEWICKI et al.	:	
Application No. 11/806,472	:	ON APPLICATION FOR
Filed: 05/31/2007	:	PATENT TERM ADJUSTMENT
Docket No. 2293.0220003/KWM/PAC	:	

This is in response to the Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(b) filed January 20, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 100 days, not 0 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK J. ITRI
MCDERMOTT WILL AND EMERY
18191 VON KARMAN AVE
IRVINE, CA 92612

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Trey Ratcliff	:	DECISION ON PETITION
Application No. 11/806,487	:	TO WITHDRAW
Filed: May 31, 2007	:	FROM RECORD
Attorney Docket No. 077527-0018	:	

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 4, 2011, 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 Mark J. Itri 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 Mark J. Itri not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Currently, the above-identified application abandoned on September 24, 2010.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: MCDERMOTT, WILL & EMERY LLP
600 13th Street, NW
Washington DC 20005-3096

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FEB 16 2012

OFFICE OF PETITIONS

KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE CA 92612

In re Application of	:	
Sam Shiaw-Shiang Jiang	:	
Application No. 11/806,502	:	ON PETITION
Filed: May 31, 2007	:	
Attorney Docket No. 1291-120.101	:	

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission filed January 27, 2012.

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 in the amount of $1110, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**.

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

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KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE CA 92612

MAILED

MAR 20 2012

OFFICE OF PETITIONS

In re Patent No. 8,132,068 :
Issue Date: March 6, 2012 :
Application No. 11/806,502 : DECISION ON REQUEST FOR REFUND
Filed: May 31, 2007 :
Attorney Docket No. 1291-120.101 :

This is a decision on the Request For Refund filed February 29, 2012.

The request is **DISMISSED**.

Applicant files the above request for refund of the $750.00 applied to applicant's deposit account no. (02-2448) on accounting date of February 16, 2012. However, a review of Office finance records for the above-identified patent application show that $750.00 was mistakenly credited to account no. 02-2448 on February 16, 2012, but then reapplied to account no. 02-2448 on accounting date of February 16, 2012.

In view of the above, the request for refund is dismissed because there is no money to be refunded.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD, SUITE 100 EAST
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/806,559	06/01/2007	Yoshihiro Kurimura	050099-0370	8759

7590 03/07/2011
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER
RODRIGUEZ, LENNIN R

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
03/07/2011	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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Alexandria, VA 22313-1450
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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of
Chishio Hosokawa
Application No. 11/806,597
Filed: June 1, 2007
Atty Docket No. 28955.1007 C3

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.57(a), filed October 12, 2010, requesting that the above-identified application be accorded a filing date of October 22, 2004, using the drawings submitted with the present petition.

The petition under 37 CFR 1.57(a) is **DISMISSED AS UNNECESSARY**.

The application was filed on October 22, 2004.

Petitioners filed the present petition requesting incorporation of inadvertently omitted drawing Figure one(1) to the above-identified application. Petitioner asserts in the amendment filed with the above petition that Figure (1) was inadvertently omitted from the application filed on June 1, 2007, but because the drawing was contained in parent Application No. 11/245,092, and the above-identified application contains a claim for benefit of priority under 37 CFR 1.55 to that application, that petitioners are permitted to amend the above-identified application to include the drawing (Figure 1) and thereby, obtain an June 1, 2007 filing date for the drawing.

The applicable rule provides (in pertinent part):

> § 1.57 Incorporation by reference.
>
> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the

prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:

(i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;

(ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

(iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

...

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

The petition is dismissed because the application as filed was entitled to a filing date even if drawings were not present in the application; see MPEP 601.01(f). Whether done in error or not, the proper filing date was given to the present application. Thus, a petition under Rule 57(a) is not the proper vehicle to achieve petitioners' goal.

Since a petition is not required, the amendment filed September October 12, 2010 to include the inadvertently omitted drawing(s) will be considered by the examiner. Please note that this amendment must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17.

Petitioner may request a refund of the petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request.

Entry of the amendment filed October 12, 2010 will be determined by the examiner. As such, this application is being forwarded to the Technology Center for consideration of the amendment.

Telephone inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208. All other inquiries should be directed to the examiner of record.

Anthony Knight
Director
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/806,601	06/01/2007	Manabu Shibutani	008312-0361548	9576

7590 09/15/2010
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
09/15/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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Paper No.

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
JAN 10 2012
OFFICE OF PETITIONS

In re Patent No. 8,027,551	:	
Issue Date: September 27, 2011	:	
Application No. 11/806,623	:	ON PETITION
Filed: June 1, 2007	:	
Attorney Docket No. 5311-0107PUS1	:	

This is in response to the REQUEST UNDER 37 C.F.R. § 3.81 TO CORRECT ASSIGNEE IDENTIFICATION filed December 16, 2011, which is properly treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Pursuant to the issue fee transmittal filed August 22, 2011, the patent issued solely in the name of assignee "Vivotek Inc." Patentee files this request, requesting that the name of the assignee be corrected to add the second assignee "National Taiwan University" and submits a certificate of correction for this purpose.

Patentee's evidence and Office records show that there are two assignees of the above-identified application including "National Taiwan University" as recorded on August 31, 2007. The recording of the assignment (Reel/Frame 019770/0747) occurred before issuance of the patent on September 27, 2011.

Receipt of the required $100 certificate of correction fee and the required $130 processing fee is acknowledged.

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 to correct the Assignee data.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MICHAEL BLAINE BROOKS, PC
P.O. BOX 1630
SIMI VALLEY CA 93062-1630

MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Application of Norihiro Yamada Application No. 11/806,867 Filed: June 5, 2007 Attorney Docket No. 26D-046	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 11, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 19, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

MAILED
JAN 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Norihiro Yamada	:	**CORRECTED**
Application No. 11/806,867	:	DECISION GRANTING PETITION
Filed: June 5, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 26D-046	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 11, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 19, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JAN 18 2011
OFFICE OF PETITIONS

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

In re Application of	:	
Tien-Chung Huang	:	
Application No. 11/806,869	:	ON PETITION
Filed: June 5, 2007	:	
Attorney Docket No. HUAN3504/JJC/JS	:	

This is a decision on the petition under 37 CFR 1.182, filed January 3, 2011, to change the name of the inventor.

The petition is **GRANTED**.

The name of the inventor has been changed from **T. C. Huang** to **Tien-Chung Huang**.

The application file is being referred to the Office of Data Management for further processing.

Telephone inquiries regarding this decision may be directed to Kimberly Inabinet (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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MAR 10 2011

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Jack Phillip Abraham	:	
Application No. 11/806,989	:	DECISION ON PETITION
Filed: June 5, 2007	:	
Attorney Docket No. 2043.908US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 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 27, 2010. A Notice of Abandonment was mailed on October 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 $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.

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 $1,110 extension of time fee submitted with the petition on January 7, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3625 for appropriate action by the Examiner in the normal course of business on the reply received January 7, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Xiaolei D. Sun
Wolff & Samson, P.C.,
One Boland Drive
West Orange, NJ 07052

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
BERG, et al	:	
Application No. 11/806,997	:	DECISION ON PETITION
Filed: June 5, 2007	:	TO WITHDRAW
Attorney Docket No. 655452000100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2011.

The request is **NOT APPROVED.**

The request to withdraw from record cannot be approved because the correspondence address provided for future communications from the Office does not include the most current information for the assignee in that the chain of title is incomplete. 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-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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SEP 22 2010

OFFICE OF PETITIONS

RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP/SYMANTEC CORPORATION
1030 BROAD STREET
SUITE 203
SHREWSBURY NJ 07702

In re Application of	:	
Mugdha Sanghavi et al.	:	
Application No. 11/807,003	:	DECISION ON PETITION
Filed: May 25, 2007	:	
Attorney Docket No. **SYMS060384**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 22, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 23, 2010.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-4584.

This application is being referred to Technology Center AU 2163 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

JoAnne Burke
Petitions Examiner
Office of Petitions

2 4 SEP 2010

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

In re Application of	:
KORSTANJE	:DECISION ON PETITION
Application No.: 11/807,109	:UNDER 37 CFR 1.78(a)(3)
Filed: May 25, 2007	:
Attorney Docket No.: ALG10220P00200US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 24, 2009, to accept an unintentionally delayed claim for the benefit of the prior-filed international application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

Applicant requests that the following sentence be added to the specification under 37 CFR 1.78(a)(3): "This application is the National Stage application of International Application PCT/NL2005/000818 filed November 29, 2005, which claims priority of Dutch Patent Application 1027625 filed November 30, 2004."

This amendment is improper for two reasons. *First*, the instant application is not the national stage of international application PCT/NL2005/000818. 37 CFR 1.495(g) states that a national stage filing "must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a)." Here, none of the documents filed 25 May 2007 identified the filing as a submission to enter the national stage under 35 U.S.C. 371. Indeed, the Transmittal Form submitted--"Utility Patent Application Transmittal" (Form PTO/SB/05)–is specifically for applications filed under 35 U.S.C. 111(a). Accordingly, the instant application was properly treated as a filing under 35 U.S.C. 111(a). *Second*, even if the instant application had been filed as a national stage application under 35 U.S.C. 371, 37 CFR 1.78(a)(3) refers to benefit claims under 35 U.S.C. 120, 121, or 365(c). As noted in MPEP 1893.03(c),

> Note: a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. See also MPEP

> § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage. For a comparison with 35 U.S.C. 120 benefit claims in a national application filed under 35 U.S.C. 111(a), see MPEP § 1895.

Regarding a proper amendment under 37 CFR 1.78(a)(3), note, for example, the decision mailed September 21, 2009, which state in part:

> 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. ---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. ---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Reference to Prior Application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Daniel Stemmer at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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MAY 06 2011

PCT LEGAL ADMINISTRATION

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

In re Application of	:	
KORSTANJE	:	DECISION ON PETITION
Application No.: 11/807,109	:	UNDER 37 CFR 1.78(a)(3)
Filed: May 25, 2007	:	
Attorney Docket No.: ALG10220P00200US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 4, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/NL2005/000818, filed November 29, 2005, set forth in the concurrently filed amendment.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first

sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii)[1]; (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the statement contained in the petition filed October 4, 2010 that the "entire delay between the date the claim was due under paragraph (d)(4) of 37 CFR §1.78 and the date the claim was filed was unintentional" has been construed as a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Petitioner must notify the Office if this is not a correct reading of the statement in the petition. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Daniel Stemmer at 571-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 1778 for appropriate action on the amendment filed October 4, 2010, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/NL2005/000818, filed November 29, 2005.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

[1] Applicant may wish to consider filing a Supplemental Application Data Sheet identifying the proper relationship between the present application to the prior filed application. Neither the ADS filed May 25, 2007 nor the ADS filed November 20, 2009 indicates the proper relationship. Applicant is advised that an ADS must bear a proper signature.

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WENDY W. KOBA
PO BOX 556
SPRINGTOWN PA 18081

MAILED

AUG 11 2011

OFFICE OF PETITIONS

In re Application of :
Daniel Scott Homa et al. :
Application No. 11/807,151 : DECISION ON PETITION
Filed: May 25, 2007 :
Attorney Docket No. BHI 064-42897 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of File Corrected Application Papers, mailed September 4, 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 November 5, 2007. The Notice of Abandonment was mailed on May 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay. Accordingly the replacement drawings are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the replies received July 26, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/807,170	05/24/2007	Mikko Jaakkola	944-019.008 (NC54776US)	4027

10945 7590 12/06/2011
NOKIA CORPORATION
c/o Ware, Fressola, Van Der Sluys & Adolphson LLP
Building Five, Bradford Green
755 Main Street, PO Box 224
Monroe, CT 06468

EXAMINER
VU, MICHAEL T

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
12/06/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NOKIA CORPORATION
c/o Ware, Fressola, Van Der Sluys & Adolphson LLP
Building Five, Bradford Green
755 Main Street, PO Box 224
Monroe CT 06468

In re Application of:	)	
JAAKKOLA, MIKKO et al	)	**DECISION ON PETITION TO**
Application No. 11/807,170	)	**WITHDRAW RESTRICTION**
Filed: May 24, 2007	)	**REQUIREMENT**
For: **POWER SAVE PROTOCOL**	)	
INTEROPERABILITY DETECTION		

This is a decision on the petition filed February 17, 2011 to withdraw the outstanding restriction requirement made on May 04, 2010.

The petition is **DISMISSED AS MOOT**.

A review of the file record indicates the restriction requirement has been withdrawn and all claims have been rejoined by the examiner as indicated in the Non-Final rejection mailed November 28, 2011.

A non-final office action has since been mailed on November 28, 2011. Application has been returned to the examiner to await next action.

/John Peng/

John Peng
Quality Assurance Specialist
Technology Center 2600
Communications

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P.O. Box 1450
Alexandria, VA 22313-1450
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MCCARTER & ENGLISH, LLP
265 FRANKLIN STREET
BOSTON MA 02110

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Application :
Kevin Foley :
Application No. 11/807,199 : DECISION ON APPLICATION
Filed: May 25, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **120464-06602** :

This is in response to the REQUEST FOR RECONS~DERATBON OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B) filed September 7, 2011. Applicant requests that the determination of patent term adjustment be corrected from 0 days to 354 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 Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010) as well as in the decision in *ArQule v. Kappos*, _F.Supp.2d _(D.D.C. 2011).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On June 8, 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 0 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants dispute the reduction of 53 days for the response filed May 19, 2011. "Applicants note that the start of the period outside the 3-months provided by 35 U.S.C. §154(b) normally would be March 27, 20I0, however, March 27, 2010 was a Sunday. In Arqule v. Kappos, _ F.Supp.2d _ (D.D.C. 2011), the District Court of the District of Columbia ruled that the 35 U.S.C. § 21 (b) "weekend add holiday" exception applies to "any action" including the § 154(b)(2)(C) Accordingly, because March 27, 2011 was a Sunday, the time period to calculate Applicant delay commenced on March 28,2011 rather than March 27, 2011. Therefore, a delay of 52 days was accrued, corresponding to the time period between March 28, 2010 (three momhs after the mailing date of the Office Action, in accordance with 37 CFR §1.704(b)) and May 19, 2011. Applicants note that the calculation of 52 days is in disagreement with the calculation of 53 days made by the Office. Thus, Applicants respectfully reqnest the Office to correct the Applicant delay from 53 days to 52 days.

The reduction is being reconsidered and, based upon the decision in the Arqule case,it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. Accordingly, the period of reduction of 1 day is being removed.

[1] PALM records indicate that the issue fee was paid on September 7, 2011.

Thus, instead of a 53 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 52 days should have been accorded for applicant delay.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance should have been 0 days (41 days of Office delay reduced by 261 days of applicant delay, rather than 262 days).

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

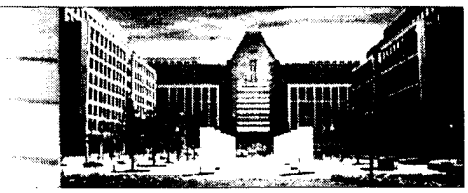
Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Patent Term Adjustments



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11807199 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11807199

Application Filing Date	05/25/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	41
A Delays	41	PTO Manual Adjustment	1
B Delays	0	Applicant Delay (APPL)	262
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
104	10/03/2011		P028	Adjustment of PTA Calculation by PTO		52	0
103	10/03/2011		P028	Adjustment of PTA Calculation by PTO	53		0
93	06/08/2011		MN/=.	Mail Notice of Allowance			0
92	06/06/2011		OAR	Office Action Review			0
91	06/06/2011		OAR	Office Action Review			0
90	06/06/2011		IREV	Issue Revision Completed			0
89	06/06/2011		DVER	Document Verification			0
88	06/06/2011		N/=.	Notice of Allowance Data Verification Completed			0
87	06/04/2011		EX.R	Reasons for Allowance			0
86	06/04/2011		CNTA	Allowability Notice			0
80	05/24/2011		FWDX	Date Forwarded to Examiner			0
75	05/20/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
82	05/19/2011		IDSC	Information Disclosure Statement considered			0
81	05/19/2011	05/19/2011	EIDS.	Electronic Information Disclosure Statement			79
79	05/19/2011	03/27/2011	A...	Response after Non-Final Action		53	72
78	05/19/2011		XT/G	Request for Extension of Time - Granted			0
76	05/19/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
74	05/18/2011		OAR	Office Action Review			0
73	05/18/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
72	12/27/2010		MCTNF	Mail Non-Final Rejection			0
71	12/23/2010		CTNF	Non-Final Rejection			0
70	09/30/2010		FWDX	Date Forwarded to Examiner			0
69	09/28/2010		A...	Response after Non-Final Action			0
68	07/01/2010		MCTNF	Mail Non-Final Rejection			0
67	07/01/2010		CTNF	Non-Final Rejection			0
66	05/13/2010		FWDX	Date Forwarded to Examiner			0
65	05/06/2010		ELC.	Response to Election / Restriction Filed			0
64	04/08/2010	02/26/2010	MCTRS	Mail Restriction Requirement	41		55
63	04/07/2010		CTRS	Restriction/Election Requirement			0
61	03/08/2010		INHY	case Inherited			0
60	03/08/2010		DOCK	Case Docketed to Examiner in GAU			0
59	02/17/2010		INHY	case Inherited			0
56	11/29/2009		FWDX	Date Forwarded to Examiner			0
55	10/26/2009	08/26/2009	A...	Response after Non-Final Action		61	48
54	10/26/2009		XT/G	Request for Extension of Time - Granted			0
53	10/12/2009		DOCK	Case Docketed to Examiner in GAU			0
52	09/18/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
51	09/15/2009		C.AD	Correspondence Address Change			0
50	08/06/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
49	07/31/2009		C.AD	Correspondence Address Change			0
48	05/26/2009		MCTNF	Mail Non-Final Rejection			0
47	05/25/2009		CTNF	Non-Final Rejection			0
46	05/07/2009		FWDX	Date Forwarded to Examiner			0
45	05/04/2009	03/31/2009	A.NE	Amendment after Final Rejection		34	43
44	05/04/2009		XT/G	Request for Extension of Time - Granted			0
43	12/31/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
42	12/29/2008		CTFR	Final Rejection			0
35	10/07/2008		FWDX	Date Forwarded to Examiner			0
40	09/25/2008		IDSC	Information Disclosure Statement considered			0
38	09/25/2008	09/05/2008	M844	Information Disclosure Statement (IDS) Filed		20	34
37	09/25/2008		M844	Information Disclosure Statement (IDS) Filed			0
32	09/25/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
41	09/05/2008		IDSC	Information Disclosure Statement considered			0
36	09/05/2008		M844	Information Disclosure Statement (IDS) Filed			0
34	09/05/2008	06/03/2008	A...	Response after Non-Final Action		94	29

33	09/05/2008	XT/G	Request for Extension of Time - Granted	0
31	09/05/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
30	03/31/2008	LET.	Miscellaneous Incoming Letter	0
29	03/03/2008	MCTNF	Mail Non-Final Rejection	0
28	02/19/2008	CTNF	Non-Final Rejection	0
19	01/08/2008	DOCK	Case Docketed to Examiner in GAU	0
18	01/03/2008	PG-ISSUE	PG-Pub Issue Notification	0
17	12/17/2007	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
16	12/17/2007	DOCK	Case Docketed to Examiner in GAU	0
14	10/02/2007	OIPE	Application Dispatched from OIPE	0
13	09/24/2007	PGPC	Sent to Classification Contractor	0
12	09/24/2007	COMP	Application Is Now Complete	0
15	09/06/2007	A.PE	Preliminary Amendment	0
11	09/06/2007	FLFEE	Payment of additional filing fee/Preexam	0
9	09/06/2007	SES	Small Entity Statement (37 CFR 1.27)	0
8	09/06/2007	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
6	07/03/2007	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	06/27/2007	L128	Cleared by L&R (LARS)	0
4	06/11/2007	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	06/11/2007	CLSS	CASE CLASSIFIED BY OIPE	0
2	06/09/2007	SCAN	IFW Scan & PACR Auto Security Review	0
1	05/29/2007	IEXX	Initial Exam Team nn	0
10	05/25/2007	SPECIFIC	A document that contains, at least in part, a written description of an invention, and of the manne	0
7	05/25/2007	CLAIM	Claim Preliminary Amendment	0
0.5	05/25/2007	EFILE	Filing date	0

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/807,204	05/24/2007	R. Hugo Patterson	DDOMP022	4527

24227 7590 10/12/2010
EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

EXAMINER
LIE, ANGELA M

ART UNIT	PAPER NUMBER
2163	

MAIL DATE	DELIVERY MODE
10/12/2010	PAPER

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Terrence L. Wong
EMC Corporation
Office of General Counsel
176 South Street
Hopkinton, MA 01748

In re Application of:
R. Hugo PATTERSON
Appl. No.: 11/807,204
Filed: May 24, 2007
For: SEEDING REPLICATION

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on 01 October 2010, to expunge document submitted on 26 September 2010..

The petition is GRANTED.

Petitioner requests that the document (i.e., a payment of an issue fee via EFS) submitted on 26 September 2010 be expunged from the record. Petitioner states that the document was unintentionally submitted. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The expunged document has been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on 23 October 2008. Thus, the aforementioned document submitted on 26 September 2010 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the document being closed as a result of this decision was not previously accessed by the public.

Applicant is required to retain the expunged document for the life of any patent, which issues on the above-identified application.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/15/11

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11807232 Patent No.: 7589079

CofC mailroom date: 06/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XXX☐ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: The C of C has been approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/S. A. Jiang/ SPE 1623

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/15/11

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11807232 Patent No.: 7589079

CofC mailroom date: 06/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
[redacted]

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XXX☐ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: The C of C has been approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/S. A. Jiang/ SPE 1623

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

6/2/2011

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

In re Application of: DAVIDSON et al.
Serial No.: 11/807,237
Filed: May 25, 2007
Docket: **ZCO-116D**

DECISION ON PETITION UNDER *37 CFR 1.48* **on Correction of Inventorship**

This is a decision on the "Petition under 37 CFR 1.48 filed May 16, 2011 to remove the following inventor: Andres T. Hernandez.

The petition is GRANTED.

The inventive entity is therefore: Thomas DAVIDSON and Robert VILLEGAS.

/Stephen D. Meier/
Supervisory Patent Examiner,
Art Unit 2853

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
OCT 18 2011
OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of	:	
Michael D. CAHALAN et al.	:	ON PETITION
Application No. 11/807,244	:	
Filed: May 24, 2007	:	
Atty. Docket No.: 407J-002430US		

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the final Office action mailed March 7, 2011 (outstanding Office action), which set a shortened statutory period for reply of three (3) months. A 3 months' extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned September 8, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $930, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as being unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 1632 for consideration of the RCE.

Rajneesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JURGEN VOLLRATH
588 SUTTER STREET # 531`
SAN FRANCISCO CA 94102

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Mirgorodski et al.	:	
Application No. 11/807,322	:	DECISION ON PETITION
Filed: May 25, 2007	:	
Attorney Docket No. P96842	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed August 16, 2010. Accordingly, the date of abandonment of this application is November 17, 2010. A Notice of Abandonment was mailed December 3, 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, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to 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

Paper No.

MCCARTER & ENGLISH, LLP
265 FRANKLIN STREET
BOSTON MA 02110

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Sun et al.	:	
Application No. 11/807,327	:	ON APPLICATION FOR
Filed: 05/25/2007	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
120464-04506	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B)," filed on September 8, 2011. Applicants submit that the patent term adjustment to be indicated on the patent should be increased from 746 days to 1243 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).

---

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) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MCCARTER & ENGLISH, LLP / SYNTA PHARMACEUTICALS
265 FRANKLIN STREET
BOSTON MA 02110

MAILED

MAR 16 2012

OFFICE OF PETITIONS

In re Patent No. 8,053,456	:	
Sun et al.	:	DECISION ON APPLICATION
Issue Date: 11/08/2011	:	FOR PATENT TERM ADJUSTMENT
Application No. 11/807,327	:	AND
Filed: 05/25/2007	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.	:	CERTIFICATE OF CORRECTION
120464-04506	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B)" filed on January 9, 2012, which is treated as a petition under 37 CFR 1.705(d). Patentees request that the Patent Term Adjustment for the above-identified patent be set at 1187 days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-six (1186) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated**.

On November 8, 2011, the above-identified application matured into U.S. Patent No. 8,053,456. The instant request for reconsideration filed on January 9, 2012, was timely filed within 2 months of the date the patent issued.[1] See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 1139 days.

[1] As January 8, 2012 fell on a Sunday, the petition filed on Monday, January 9, 2012 was timely filed. See 37 CFR 1.7(a).

Patentees contend that that the 57 day reduction in patent term adjustment pursuant to 37 CFR 1.704(c)(10) for the filing of a supplemental oath or declaration after the mailing of the notice of allowance, is incorrect. Patentees contend that no new oath or declaration was filed, and the period of reduction for applicant delay should be 0 days.

Patentees further note that the period of reduction of 5 days under 37 CFR 1.704(c)(10) for the filing of an amendment after the mailing of the notice of allowance on September 8, 2011, appears to be incorrect. Patentees state the period of reduction should be 14 days, from the date the amendment after the mailing of the notice of allowance was filed until the date the Office mailed a response to the amendment.

Patentees' contention is persuasive, to the point indicated.

37 CFR 1.704 states, in pertinent part:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> ...
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, **beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper**; or
>
> (ii) Four months; and
>
> ...

(emphasis added)

Accordingly, applicant delay is calculated as the lesser of the number of days between the date (not the day after the date) the amendment under 37 CFR 1.312 is filed, and the date the Office mails a communication in response to the amendment under 37 CFR 1.312, or four (4) months.

A review of the record reveals that on September 8, 2011, an amendment or other paper after the mailing of the notice of allowance was filed. A paper in response to the amendment or other paper filed after the mailing of the notice of allowance was mailed on September 22, 2011, 15 (not 14) days after the date the amendment after the mailing of the notice of allowance was mailed.

Furthermore, on September 13, 2011, an amendment or other paper after the mailing of the notice of allowance, (i.e., a request for a corrected filing receipt) was filed, accompanied by a copy of the original oath or declaration. On September 14, 2011, a corrected filing receipt was mailed in response, 2 days after the date the amendment or other paper after the mailing of the notice of allowance was filed.

The 15 day period of applicant delay from September 8, 2011 to September 22, 2011 overlaps with the 2 day period of applicant delay from September 13, 2011 to September 14, 2011. Accordingly, the non-overlapping period of delay is 15 days. The 5 day and 57 day periods of delay will be removed and a 15 day period of delay will be entered.

The patent term adjustment at the time of issuance of the patent is 1186 days (746 days of Office delay + 532 days of three years delay - 77 overlapping days - 15 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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 Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-six **(1186)** days.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3231.

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 : 8,053,456 B2

DATED : **Nov. 8, 2011** **DRAFT**

INVENTOR(S) : Sun 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 1139 days.

Delete the phrase "by 1139 days" and insert – by 1186 days--

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/807,328	BORTOLIN ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				6	435	91.1							
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33	25.3				
C	1	2	Q	1/68									
C	1	2	P	19/34									
C	0	7	H	21/02									
C	0	7	H	21/04									
C	0	7	H	21/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 11/19/2010	Total Claims Allowed: 27	
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s) 1	O.G. Print Fig. 1

☐ 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		31		61		91	16	121		151		181
	2		32		62		92	17	122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
	6		36		66	1	96		126		156		186
	7		37		67	2	97		127		157		187
	8		38		68	3	98		128		158		188
	9		39		69	4	99		129		159		189
	10		40		70	5	100		130		160		190
	11		41		71	6	101		131		161		191
	12		42		72	7	102		132		162		192
	13		43		73	8	103		133		163		193
	14		44		74	9	104		134		164		194
	15		45		75	10	105		135		165		195
	16		46		76	11	106		136		166		196
	17		47		77	12	107		137		167		197
	18		48		78	13	108		138		168		198
	19		49		79	14	109		139		169		199
	20		50		80	15	110		140		170		200
	21		51		81	18	111		141		171		201
	22		52		82	19	112		142		172		202
	23		53		83	20	113		143		173		203
	24		54		84	21	114		144		174		204
	25		55		85	22	115		145		175		205
	26		56		86	23	116		146		176		206
	27		57		87	24	117		147		177		207
	28		58		88	25	118		148		178		208
	29		59		89	26	119		149		179		209
	30		60		90	27	120		150		180		210

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MAILED

SEP 27 2010

OFFICE OF PETITIONS

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

In re Application of	:	
Jorn BULLERDIEK, et *al.*	:	
Application No. 11/807,330	:	DECISION ON PETITION
Filed: May 25, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **4993-071981**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 20, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 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 the total additional fees of $1760, a substitute specification, replacement drawings, CRF previously filed in parent application, statement regarding content of CRF, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The address given on the petition differs from the address of record. Petitioner may wish to file a change of correspondence address 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 Technology Center AU 1633 for appropriate action by the Examiner in the normal course of business on the reply received June 10, 2010 and September 10, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **BARBARA E. JOHNSON, ESQ.**
555 GRANT STREET, SUITE 323
PITTSBURG, PA 15219

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/807,332	05/25/2007	Mahalaxmi Gita Bangera	1003-002-002O-000000	4543

44765 7590 09/19/2011
THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE, WA 98004

EXAMINER
BRUSCA, JOHN S

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
09/19/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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SEP 1 9 2011

THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6th Street
Suite 200
Bellevue, WA 98004

In re Application of
Bangera et al.
Serial No.: 11/807,332
Filed: May 25, 2007
Attorney Docket No.: 1003-002-002O-000000

Decision on Petition

This letter is in response to the Petition of January 14, 2011 under 37 CFR 1.144 to request the reconsideration of the restriction requirement mailed on March 8, 2010.

BACKGROUND

On May 25, 2007, the present application was filed with 27 claims, claiming priority as a continuation-in-part to a number of previously filed U.S. non-provisional applications.

On March 8, 2010, the Examiner issued a Requirement for Restriction ("Requirement") requiring an election of one of two species, described as follows on page 2 of the Requirement:

> 1) Treatment with an immune response component (claims 2, 3, 11, 12, 20, and 21)
> 2) Treatment by modulation of an immune response component (claims 6, 7, 15, 16, 24, and 25).

The restriction is in on the basis of the asserted mutually exclusive characteristics of the species, and that fact that a different field of search would be required in each case.

On March 29, 2010, the Applicants elected, with traverse, the species of treatment "Treatment with an immune response component." With the response, the Applicant presented several arguments in traversal of the election of species requirement, these arguments generally being assertions that the

Examiner had not met the burden of establishing that the species were distinct or that there would be undue burden in the examination of each of the claimed species.

On May 26, 2010, the Examiner issued a First action on the merits, which action made the Requirement final of page 3. In the action, the elected claims were rejected on several statutory and non-statutory grounds.

On August 26, 2010, the Applicant submitted a Response to the First action asserting that they continue to traverse the Requirement, but requesting that the withdrawn claims be considered for rejoinder in the event that the generic claims are found allowable.

On September 17, 2010, the Examiner issued a Final action, in which they noted the Applicant's request of rejoinder if the generic claims are found allowable. The elected claims were rejected on both statutory and non-statutory grounds.

The present Petition was filed on January 14, 2011. In the Petition, the Applicant asks for withdrawal of the Requirement, and rejoinder and examination of the withdrawn claims.

DISCUSSION

The application, file history, and petition filed on August 30, 2010 to request review of the restriction requirement has been considered.

In the present case, the Examiner required the species election on the basis that "[t]he species are independent or distinct because claims to the different species recite mutually exclusive characteristics of such species." Requirement, page 2. The Examiner further explained the species election in page 2 of the First action as follows:

> Species of treatment 1 requires treatment with an immune response component, while species of treatment 2 requires treatment by modulating an immune response component. Species 2 does not require use of an immune response component, but could require use of a pharmaceutical, while species 1 requires use of either a biomolecule such as an antibody or an immune system cell such as a T cell. The two species require different processes of using different components.

In traversal of the requirement, the Applicant asserts that the Examiner's explanation fails to demonstrate that the species are distinct from each other as is required for species elections. See e.g. MPEP § 806.04(f), indicating that restriction to a single species may be proper where the species are mutually exclusive. It is noted in particular that this section further indicates that the requirement that species are mutually exclusive may also be expressed by stating that the species "must not overlap in scope."

In the present case, the specification provides a definition of what compounds are included by the phrase "immune response components," the compounds of the first species. See e.g., pages 23-24. The list of such components includes numerous components of the immune system. Among the categories of compounds identified as "immune response components" are "immune response modulators" and "modulators of an immune system able to effect and /or affect an immune response to an exogenous or

endogenous antigen or epitope." Id. Thus, a reading of the specification indicates that reference to "an immune response component" includes the subgenus of components that are capable of modulating an immune response. Such a modulator would be a compound that may be described as a modulator of at least one immune response component, in that the modulators of the immune response would by necessity be required to modulate the components involved in that immune response.

It is noted that the second species identified by the Examiner are those methods involving the modulation of at least one immune response component. This second species therefore at least overlaps with, if it is not a subgenus of, the first species in that it appears to describe methods wherein the treatment is effected by the use of one of the modulators of the immune response included in the first species.

In view of the above, it is agreed that the Examiner has not established that the identified species are in fact mutually exclusive.

As the indicated species are not found to be mutually exclusive from each other, the withdrawal of claims 6, 7, 15, 16, 24, and 25 is also found to be improper.

DECISION

For these reasons above, the petition under 37 C.F.R. 1.181 is **GRANTED**.

For the reasons above, the species election between the two species identified by the Examiner is withdrawn.

The application will be forwarded to the Examiner for rejoinder and consideration claims 6, 7, 15, 16, 24, and 25 and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Supervisory Patent Examiner Zachariah Lucas, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Mary C. Elliott, for

Jacqueline Stone
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/807,337	05/25/2007	Mahalaxmi Gita Bangera	1003-002-002M-000000	4513

44765 7590 09/19/2011
THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6TH STREET
SUITE 200
BELLEVUE, WA 98004

EXAMINER
BRUSCA, JOHN S

ART UNIT	PAPER NUMBER
1631	

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09/19/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SEP 1 9 2011

THE INVENTION SCIENCE FUND
CLARENCE T. TEGREENE
11235 SE 6th Street
Suite 200
Bellevue, WA 98004

In re Application of
Bangera et al.
Serial No.: 11/807,337
Filed: May 25, 2007
Attorney Docket No.: 1003-002-002M-000000

Decision on Petition

This letter is in response to the Petition of February 17, 2011 under 37 CFR 1.144 to request the reconsideration of the restriction requirement mailed on June 17, 2010.

BACKGROUND

On May 25, 2007, the present application was filed under 35 U.S.C. 111(a) with 36 claims, claiming priority as a continuation-in-part to parent application 10/925902.

On June 17, 2010, the Examiner issued a Requirement for Restriction ("Requirement") requiring elections from each of two groups of species, described as follows on pages 2-3 of the Requirement:

A) Species of association of a computable portion of an agent with an immune response:
1) autoimmune response (claims 3, 15, and 27)
2) disease state (claims 4, 16, and 28)
3) agent pathogenicity (claims 5, 17, and 29)
4) agent transmission (claims 6, 18, and 30)
5) a protein sequence change (claims 7, 19, and 31)

B) Species of immune response component
1) lymphoid cell (claims 8, 20, and 32)
2) myeloid cell (claims 8, 20, and 32)

3) T cell (claims 8, 20, and 32)
4) B cell (claims 8, 20, and 32)
5) modulator of lymphoid cells (claims 9, 21, and 33)
6) modulator of myeloid cells (claims 9, 21, and 33)
7) modulator of T cells (claims 9, 21, and 33)
8) modulator of B cells (claims 9, 21, and 33)
9) B cell receptor (claims 10, 22, and 34)
10) antibody (claims 10, 22, and 34)
11) MHC molecule (claims 10, 22, and 34)
12) CD1 molecule (claims 10, 22, and 34)
13) adhesion molecule (claims 10, 22, and 34)
14) chemokine (claims 10, 22, and 34)
15) cytokine (claims 10, 22, and 34)
16) modulator of a T cell receptor (claims 11, 23, and 35)
17) modulator of a B cell receptor (claims 11, 23, and 35)
18) modulator of an antibody (claims 11, 23, and 35)
19) modulator of an MHC molecule (claims 11, 23, and 35)
20) modulator of a CD1 molecule (claims 11, 23, and 35)
21) modulator of an adhesion molecule (claims 11, 23, and 35)
22) modulator of a chemokine (claims 11, 23, and 35)
23) modulator of a cytokine (claims 11, 23, and 35)

The species were indicated to independent or distinct on the basis that the different species of association are the result of different biological properties cause by different biological components; and that the different species of immune response components consist of cells or molecules with different structures and properties. Restriction page 3.

On July 16, 2010, the Applicant submitted an Election in response to the Restriction. In the Election, the Applicant provisionally elected, with traverse, the species of association of "agent pathogenicity" and the species of immune response component of "lymphoid cells." Election, page 19. In the Election, the Applicant presented several arguments in traversal of the election of species requirement. Among these arguments was the assertion that the Examiner did not present evidence in support of the assertions as to why the species are independent or distinct. Election, page 16. In addition, the Applicant also asserted that certain of the indicated species were not in fact independent or distinct. Id, at pages 17-18.

On August 5, 2010, the Examiner issued a First action on the merits, which action made the Requirement final of page 3. However, in the action, the Examiner considered Applicant's arguments, and in the instance where the Applicant asserted that the elected species of "lymphoid cells" was not independent or distinct from other indicated species, the Examiner withdrew this portion of the restriction. Pages 2-3.

On August 26, 2010, the Applicant submitted a Response to the First action asserting that they continue to traverse the Requirement, and asserting that the withdrawal of the claims drawn to non-elected species is premature.

On November 23, 2010, the Examiner issued a Final action in which no change was made with respect to the restriction.

The present Petition was filed on February 17, 2011. In the Petition, the Applicant asks for withdrawal of the Requirement, and rejoinder and examination of the withdrawn claims.

DISCUSSION

The application, file history, and petition filed on February 17, 2011 to request review of the restriction requirement has been considered.

In the present case, the Examiner required the species election on the grounds indicated above.

Applicant first appears to assert on page 5 of the Petition that the Requirement was deficient for failure to provide more than general assertions as to why the identified species were patentably distinct from each other and would require undue burden if examined together. MPEP § 803 indicates that the Examiner must provide reasons to support their conclusions that the species are independent or distinct, and that there would be undue burden on the examiner if restriction is not required. Such reasons were provided on page 3 with respect to the species being patentably distinct, and on page 4 with respect to the search burden (demonstrating undue burden on the examiner). Having provided such reasons, there is no further requirement that the Examiner provide more than the general rationale on which the species were found distinct, and for which undue burden was found to be present.

Applicant further asserts that the response to the Election left the status of the non-elected claims unclear. This is somewhat inherent in the treatment of such non-elected claims. As indicated by MPEP § 821, claims held to be drawn to nonelected invention are withdrawn from further consideration. The claims were therefore properly withdrawn. Until a generic claim is identified as allowable, and where all the limitations of such a generic claim are required by the non-elected claims, the status of the non-elected claims is indefinite. See e.g., MPEP § 821.04. It is only upon the identification of allowable subject matter that the nonelected claims will be considered for rejoinder.

On pages 7 and 9-11 of the Petition, the Applicant further asserts that the Requirement is deficient for failure to provide evidence in support of the assertions as to why the species election was proper. It is agreed that the Examiner did not supply evidence in support of the assertions that the species are independent or distinct. However, MPEP § 803 indicates that, while the Examiner must provide reasons to support their conclusions (which reasons were provided in the Requirement), the Examiner "need not cite documents to support the restriction in most cases." Thus, while the Applicant's assertion that no evidence was presented appears correct, it is not found to be persuasive in demonstrating that the Requirement was deficient in any respect.

The Applicant next asserts that at least certain of the species identified in the Requirement are not in fact patentably distinct. Page 10. This is acknowledged, and was acknowledged by the Examiner on pages 2-3 of the First action. In the instance where the Applicant noted that the elected invention was in fact not patentably distinct from other identified species, the Examiner withdrew the election requirement among such species. It is noted that there is no assertion by the Applicant that any of the

withdrawn claim read upon species that are patentably indistinct from the elected species. Further, there has been no identification of an allowable generic claim. Thus, there is no present need to reconsider whether the claims to other species from those elected are in fact patentably indistinct from each other. In view of the above, and in view of the Examiner's rejoinder of the species identified as being not patentably distinct from the elected species, the Applicant's argument is not found persuasive in necessitating a withdrawal of the election requirement.

In addition to the above arguments, Applicant further asserts on page 11 of the Petition that the Examiner has improperly required election among species in Markush claim format. MPEP 803.02 indicates that provisional species elections may be required by the Examiner where a Markush-type claim encompasses at least two independent or distinct inventions. In the present case, the Examiner has provided rationale as to why there is search burden among the species. Thus, it was not improper for the Examiner to require the provisional election among the species in the Markush claim format.

However, while the Examiner is permitted to require a provisional election among species of a Markush claim, where there is no art applied against the elected embodiment of such claims, the Examiner is required to extend search and examination to other embodiments of the claim. In the present case, as the record currently stands, the Examiner has applied only an enablement rejection under 35 USC 112, paragraph 1, and non-statutory double patenting rejections against the pending claims. Of these, only the enablement rejection is applied against the species of Markush claim 8. While the Examiner rejoined the species of B, T, and natural killer T cells to the elected lymphoid cells, and never required restriction from the more generic immune cells; the record is not clear as to the status of the myeloid cells also recited in claim 8.

Unless art is found and applied against the elected embodiments of claim 8, the Examiner is required to extend examination to the remaining non-elected embodiments of the claim to the extent necessary to determine patentability of the claim over the prior art, in a manner consistent with the February 2011 Federal Register Notice entitled "Supplemental Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for treatment of Related Issues in Patent Applications." Page 7166 sets forth guidelines for the treatment of Markush-type claims:

> "Under principles of compact prosecution, the examiner should also require the applicant to elect a species or group of indistinct species for search and examination (i.e., an election of species).52 If the examiner does not find the species or group of indistinct species in the prior art, then the examiner should extend the search to those additional species that fall within the scope of a permissible Markush claim. In other words, the examiner should extend the search to the species that share a single structural similarity and a common use. The improper Markush claim should be examined for patentability over the prior art with respect to the elected species or group of indistinct species, as well as the species that share a single structural similarity and a common use with the elected species or group of indistinct species (i.e., the species that would fall within the scope of a proper Markush claim)."

In view of these new guidelines, the provisional election of species requirement is maintained as appropriate, however the Office failed to follow the examination practice for Markush claims.

DECISION

For these reasons above, the petition under 37 C.F.R. 1.144 is **GRANTED in part**.

The Applicant's arguments regarding the deficiencies of the Requirement as originally presented are not found persuasive. Applicant's request for relief in the form of withdrawal of the Requirement, and examination of the withdrawn claims is therefore denied.

However, it is agreed that it is not clear that proper Markush claim practice has been applied with respect to claim 8.

The application will be forwarded to the Examiner for consideration claim 8 in compliance with MPEP 803.02 and the practice set forth in the February 2011 FR Notice as described above, and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Supervisory Patent Examiner Zachariah Lucas, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

A request for reconsideration for this petition decision should be filed under 37 CFR 1.181 within 2 months of the mailing date of this decision.

George C. Elliott, for

Jacqueline Stone
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/807,337	05/25/2007	Mahalaxmi Gita Bangera	1003-002-002M-000000	4513

44765 7590 02/24/2012
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EXAMINER
BRUSCA, JOHN S

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
02/24/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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FEB 24 2012

Elizabeth L. Shubert
11235 SE 6TH STREET
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In re Application of	:
Bangera et al	:Decision on Petition
Serial No.: 11/807,337	:
Filed : 25 May 2007	:
Attorney Docket No.: 1003-002-002M-0000	:

This letter is in response to the Renewed Petition under 37 C.F.R. 1.181 filed on 18 November 2011 requesting reconsideration of the petition decision mailed 19 September 2011. This petition was timely filed within TWO months of the mail date of the initial petition decision. No fee is required for this petition.

BACKGROUND AND DISCUSSION

The file history of the instant application has been considered carefully.

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to consideration under restriction practice under Chapter 800.

A more detailed review of the prosecution history may be found in the petition decision mailed 19 September 2011.

A non-final Office action mailed on 21 November 2011, re-opened prosecution following the filing of an Appeal Brief and contained a rejection under 35 U.S.C. 103 along with provisional non-statutory double patenting rejections.

As of 5 November 2010, 36 claims were present, directed to in general to systems and/or method related to detecting and treatment.

Claims 1, 13 and 25 are drafted independent format, the remainder depending directly or indirectly upon claims 1, 13 or 25. Claims 1 and 25 have been amended, the remainder are as originally filed.

The petition requests reconsideration of the election of species requirements. On 17 June 2010, the examiner had required applicants to elect

(A): one of 5 species of "association of a computable portion of an agent with an immune response" and

(B): one of 23 species of "immune response components. "

The requirement for Set (A) is set forth below.

A) Species of association of a computable portion of an agent with an immune response:

1) autoimmune response (claims 3, 15, and 27)

2) disease state (claims 4, 16, and 28)

3) agent pathogenicity (claims 5, 17, and 29)

4) agent transmission (claims 6, 18, and 30)

5) a protein sequence change (claims 7, 19, and 31)

Applicants elected "agent pathogenicity," with traverse.

MPEP 806.04(f) provides the following guidance for restriction between mutually exclusive species:

> "Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope."

A review of Set (A) indicates that the "species" are not mutually exclusive as would be required by MPEP 806.04(f). The limitations identified as "species" overlap in scope with each other. For example, a protein sequence change (Species 5) may be associated with a disease state (Species 2), such as sickle cell anemia or cystic fibrosis. An autoimmune response (Species 1) is a type of disease state (Species 2). An agent transmission (Species 4) encompasses a virus infection that results in a disease state (Species 1) and overlaps in scope with an agent pathogenicity (Species 3).

Moreover, this type of election requirement in inconsistent with 806.04(h), that requires species to be patentably distinct from each other.

> "In making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other."

Turning now to Set (B), the examiner prepared a longer list of "species," from which applicants elected "lymphoid cell" with traverse.

B) Species of immune response component

1) lymphoid cell (claims 8, 20, and 32)

2) myeloid cell (claims 8, 20, and 32)

3) T cell (claims 8, 20, and 32)

4) B cell (claims 8, 20, and 32)

5) modulator of lymphoid cells (claims 9, 21, and 33)

6) modulator of myeloid cells (claims 9, 21, and 33)

7) modulator of T cells (claims 9, 21, and 33)

8) modulator of B cells (claims 9, 21, and 33)

9) B cell receptor (claims 10, 22, and 34)

10) antibody (claims 10, 22, and 34)

11) MHC molecule (claims 10, 22, and 34)

12) CD1 molecule (claims 10, 22, and 34)

13) adhesion molecule (claims 10, 22, and 34)

14) chemokine (claims 10, 22, and 34)

15) cytokine (claims 10, 22, and 34)

16) modulator of a T cell receptor (claims 11, 23, and 35)

17) modulator of a B cell receptor (claims 11, 23, and 35)

18) modulator of an antibody (claims 11, 23, and 35)

19) modulator of an MHC molecule (claims 11, 23, and 35)

20) modulator of a CD1 molecule (claims 11, 23, and 35)

21) modulator of an adhesion molecule (claims 11, 23, and 35)

22) modulator of a chemokine (claims 11, 23, and 35)

23) modulator of a cytokine (claims 11, 23, and 35)

This requirement was modified upon reconsideration of the traversal. It is noted that the examiner rejoined the species of lymphoid cells, T cells and B cells for examination.

However, because further items on the list (B) are not patentably distinct "species," the requirement is inconsistent with the guidance of MPEP 806.04(f) and (h). For examples, the MHC molecule (Species 11) mediates interactions with T cells (Species 3), resulting in "modulation of T cells (Species 7), which modulates B cells (Species 8) resulting in the production/modulation of antibody (Species 10 and 18). As another example, chemokines (Species 14) are generic to cytokines (Species 15) which can modulate interaction with receptors T cells (Species 16) or B cells (Species 17). Similar overlap in scope is found amongst other members of list (B).

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 18 November 2011 is **GRANTED**.

The two species election requirements set forth on 17 June 2010 have been withdrawn.

The Office action mailed 21 November 2011 is withdrawn as incomplete for having removed claims 3, 4, 6, 7, 9-11, 15, 16, 18, 19, 21-23, 27, 28, 30, 31 and 33-35 from examination.

The application will be forwarded to the examiner to prepare an Office action consistent with this petition decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

Wanda L. Walker

Wanda Walker
Director, Technology Center 1600

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Lee & Hayes, PLLC
601 W Riverside
Suite 1400
Spokane, WA 99201

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Alexander J. Cohen et al.	:	
Application No. 11/807,350	:	DECISION ON PETITION
Filed: May 25, 2007	:	TO WITHDRAW
Attorney Docket No. QQ1-0106US	:	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 26, 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 there was no forwarding correspondence address. The forwarding address should be that of 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

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MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Alexander J. Cohen et al.	:	
Application No. 11/807,352	:	DECISION ON PETITION
Filed: May 25, 2007	:	TO WITHDRAW
Attorney Docket No. QQ1-0091US	:	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 26, 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 there was no forwarding correspondence address. The forwarding address should be that of 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

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MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Alexander J. Cohen et al.	:	
Application No. 11/807,353	:	DECISION ON PETITION
Filed: May 25, 2007	:	TO WITHDRAW
Attorney Docket No. QQ1-0092US	:	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 26, 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 there was no forwarding correspondence address. The forwarding address should be that of 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

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AUG 29 2011

OFFICE OF PETITIONS

Paper No.

McCarter & Englsih, LLP
265 Franklin Street
BOSTON MA 02110

In re Application of	:	
Du et al.	:	DECISION
Application No. 11/807,354	:	ON APPLICATION FOR
Filed: May 25, 2007	:	PATENT TERM ADJUSTMENT
Atty Docket No. 3211.1058-001	:	
Title: METHOD FOR TREATING	:	
PROLIFERATIVE DISORDERS WITH	:	
HSP90 INHIBITORS	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed August 16, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred and thirty-eight (638) days, not one hundred and one (101) 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.[1] In addition, Applicants contend that one additional period of applicant delay is warranted pursuant to 37 C.F.R. § 1.704(c)(10).[2]

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 and to the Office's failure to accord a reduction to the patent term pursuant to 37 C.F.R. § 1.704(c)(10), the application for patent term adjustment under 37 CFR 1.705(b) and 1.704(c)(10) is **DISMISSED as PREMATURE** on both grounds.

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

[1] Petition, pages 2-3.
[2] Id. at 2.

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) and the 37 CFR 1.704(c)(10) calculations 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) or 37 CFR 1.704((c)(10) 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) and 37 CFR 1.704((c)(10) 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.[3]

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[3] 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).

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[4] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No.

RON WAYNE HAMBURG
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SACRAMENTO CA 95842

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NOV 22 2010
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In re Application of	:	
Ron Wayne Hamburg	:	
Application No. 11/807,412	:	DECISION ON PETITION
Filed: May 29, 2007	:	PURSUANT TO
Title: GPS AUTOPILOT SYSTEM	:	37 C.F.R. § 1.137(A)

This is a decision on the petition filed October 20, 2010, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on January 19, 2010. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on March 20, 2010. A Notice of Abandonment was mailed on October 5, 2010.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §§ 41.37(a)(1) and (2) set forth, *in toto*:

> (a)
>
> (1) Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.
>
> (2) The brief must be accompanied by the fee set forth in § 41.20(b)(2)

The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[1]
>
> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[2]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[3]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[4]

The burden of showing the cause of the delay is on the person seeking to revive the application.[5]

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1 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

2 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

3 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

4 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

5 Id.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[7]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[8]

ANALYSIS

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

---

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

7 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
8 Haines v. Quigg, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

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.

With this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has included the petition fee and a statement of facts.

The second requirement of Rule 1.137(a) has been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[9]

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[10] In order for the application to be revived, Petitioner must submit a reply that satisfies 37 C.F.R. § 1.137(a)(1) (*i.e.*, an appeal brief and the associated fee, an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. § 1.53(b); a request for continuing examination under 37 C.F.R. §1.114, if applicable; or a 37 C.F.R. § 1.129(a) submission, if applicable). The petition was not accompanied by any of these replies.

Regarding the third requirement, the petition pursuant to 37 C.F.R. § 1.137(a) is silent as to the reason(s) that an Appeal Brief was not timely filed. It follows that Petitioner has not carried his burden of establishing that the entire period of delay was unavoidable.

It follows that the record does not support a finding that the entire period of delay was unavoidable. The present set of facts might result in a finding of unintentional delay, but it does not rise to the level of unavoidable.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition 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.

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9 See Rule 1.137(d).
10 See MPEP § 711.03(c).

Unless Petitioner believes that he can successfully establish that the entire period of delay was unavoidable, he may wish to file a petition pursuant to the unintentional standard (37 C.F.R. § 1.137(b)).

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[11] hand-delivery,[12] or facsimile.[13] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[14]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[15] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

11 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
12 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
13 (571) 273-8300: please note this is a central facsimile number.
14 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
15 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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DI LI
415 ARROWSMITH DR.
MISSISSAUGA ON L5W IV2 CA CANADA

MAILED
DEC 08 2011
OFFICE OF PETITIONS

In re Application of :
Li : DECISION ON PETITION
Application No. 11/807,452 :
Filed: May 29, 2007 :
For: EXTENSIBLE MULTI-DIMENSIONAL FRAMEWORK :

This decision is in response to the petition under 37 CFR 1.137(b), filed November 16, 2011.

The petition is **GRANTED**.

The application became abandoned November 15, 2010 for failure to timely submit a proper reply to the Office action mailed October 14, 2010. The Office action set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed April 26, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 3629 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FAY SHARPE LLP / XEROX - PARC
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Patent No. 7,925,366 :
Issue Date: 04/12/2011 :
Application No. 11/807,475 : ON PETITION
Filed: 05/29/2007 :
Attorney Docket No. 20061139USNP- :
XER1460US01 :

This is a decision on the petition under 37 CFR 3.81(b) filed April 21, 2011.

Patentees request correction of the front page of the Letters Patent to include the correct assignee data via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form and paid the requisite fees. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee data is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. 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 as to the assignment information.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS TX 75252

MAILED
JAN 17 2012
OFFICE OF PETITIONS

In re Application of :
Hsu et al. :
Application No. 11/807,505 : ON PETITION
Filed: May 29, 2007 :
Attorney Docket No. TSM06-0738 :
For: PROGRAMMABLE SEMICONDUCTOR INTERPOSER FOR ELECTRONIC PACKAGE AND METHOD OF FORMING

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2011, to revive the above-identified application.

This application became abandoned as a result of petitioners' failure to file an appropriate follow-up submission to the Notice of Appeal, filed August 25, 2011, within two (2) months of the filing of the Notice of Appeal. As an appropriate follow-up submission was not filed within two (2) months of the filing of the Notice of Appeal, filed August 25, 2011, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 26, 2011. *See* MPEP 1215.04.

Applicants have submitted a proper reply in the form of an RCE and required $930.00 fee and an amendment as the submission, an acceptable statement of the unintentional nature of the delay in filing a follow-up submission to the Notice of Appeal, and the $1,860.00 petition fee.

The petition is **GRANTED**.

This application is being referred to Technology Center AU 2811 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/807,538	05/29/2007	Sheng Wu	CIT.4650US1	6486

69250 7590 09/01/2010
SETH Z. KALSON
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER
NUR, ABDULLAHI

ART UNIT	PAPER NUMBER
2886	

MAIL DATE	DELIVERY MODE
09/01/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Applicant : SHENG WU
Appl No.: 11/807,538
Filed: May 29, 2007

DECISION GRANTING PETITION UNDER *37 CFR 1.48*

This decision is in response to the petition filed May 18, 2010 in the above-identified application. Petitioner requests that inventorship be corrected in accordance with 37 C.F.R. 1.48.

Specifically, the petition requests that William A. Goddard, III. be added as a co-inventor.

The petition complies with 37 CFR 1.48(a) in that: (1) the desired inventorship change was set forth; (2) a statement was provided from the co-inventor(s) to be added that the error occurred without deceptive intention on his or her part; (3) a declaration from each actual inventor was provided; (4) the fee set forth in 37 CFR 1.17(i) has been paid; and (5) written consent of the assignee was submitted.

The papers filed on May 18, 2010 and August 16, 2010 thus fulfill the requirements set forth in 37 C.F.R. 1.48(a), and the petition is GRANTED.

/Tarifur Chowdhury/
Supervisory Patent Examiner, Art Unit 2886
Technology Center 2800

SETH Z. KALSON
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402
UNITED STATES

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LIU & LIU
444 S. FLOWER STREET
SUITE 1750
LOS ANGELES, CA 90071

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of
Hyoung Chan Rhee, et al.
Application No. 11/807,598
Filed: May 29, 2007
Attorney Docket No. 1141/203

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 20, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Wen Liu on behalf of all attorneys of record who are associated with customer No. 26588. All attorneys/agents associated with the Customer Number 26588 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 September 17, 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: RINGFREE INTERNATIONAL CORPORATION
28951 ROCKPORT DRIVE
LAGUNA NIGUEL, CA 92677

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/807,598	05/29/2007	Hyoung Chan Rhee	1141/203

CONFIRMATION NO. 5594

POWER OF ATTORNEY NOTICE

26588
LIU & LIU
444 S. FLOWER STREET SUITE 1750
LOS ANGELES, CA 90071

OC000000044906162

Date Mailed: 12/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/20/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/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

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Patent No. : 7974749 B2
Application No.: 11/807603
Inventor(s) : Andrew M. Zettel et al.
Issued : 07/05/2011
Attorney Docket No.: GP-308988-PTE-CD

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: 07/29/2011

Address: Michael D. Wiggins
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

ts

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of	:	
John Neiderman, et al.	:	
Application No.: 11/807,659	:	ON PETITION
Filed: May 30, 2007	:	
Attorney Docket No.: E2005-720019	:	

This is a decision on the petition, filed July 14, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 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 1776 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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GARY K. PRICE
TERRELL, BAUGH, SALMON & BORN, LLP
700 S. GREEN RIVER RD.
SUITE 2000
EVANSVILLE IN 47715

MAILED

AUG 24 2010

OFFICE OF PETITIONS

In re Application of
Richie JOHNSON
Application No. 11/807,710
Filed: May 29, 2007
Attorney Docket No. **11782.001**

DECISION ON PETITION

This is a decision on the petition, filed December 08, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 10, 2009, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before May 10, 2009. A Notice of Abandonment was mailed November 18, 2009.

Petitioner states that a timely reply was transmitted via facsimile on April 29, 2009, which included the Applicant's response to the above noted Office action. Petitioner has submitted a copy of the sending unit's report confirming transmission, dated April 29, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or

after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 10, 2009 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on April 29, 2010.

This application is being referred to Technology Center AU 1791 for appropriate action in the normal course of business on the reply received with petition.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH PA 15222-2613

MAILED
AUG 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Khanna et al.	:	
Application No. 11/807,721	:	DECISION ON PETITION
Filed: May 30, 2007	:	
Attorney Docket No. 070049	:	

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 submit Corrected Drawings on or before June 7, 2010, as required by the Notice of Allowability mailed March 5, 2010. Accordingly, the date of abandonment of this application is June 8, 2010. A Notice of Abandonment was mailed July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Corrected Drawings; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. 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 and review of the Corrected Drawings submitted on July 7, 2010.

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

McKeon Meunier Carlin & Curfman LLC
817 W. Peachtree Street, Suite 900
Atlanta GA 30308

MAILED
AUG 16 2010
OFFICE OF PETITIONS

In re Application of :
Coffey, et al. :
Application No. 11/807,770 : ON APPLICATION FOR
Filed: May 30, 2007 : PATENT TERM ADJUSTMENT
Docket No. 10005-005US6 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed July 1, 2010.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that there was an additional applicant delay of 84 days. However, the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance remains **zero (0) days**. A copy of the updated PALM screen, showing the change, is enclosed.

On May 3, 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 is 0 days. On July 1, 2010, applicants submitted the instant petition. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated based on the Office's failure to consider the fact that a supplemental paper was filed on December 23, 2009 after a reply was filed on September 30, 2009.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed enter a reduction for an Information Disclosure Statement filed on December 23, 2009. After applicants filed a reply on September 30, 2009 to a non-final Office action, applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on December 23, 2009. The

record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed December 23, 2009, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 84 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, October 1, 2009, and ending on the date that the IDS was filed, December 23, 2009. Accordingly, a period of reduction of 84 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance remains **0 days**. However, applicant delay has been increased from 36 days to 120 days. (0 days of Office delay - 120 days of applicant delay).

The Office acknowledges receipt 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 applicant 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.

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Saturday
Date: 8/14/2010

PALM INTRANET

Time: 14:40:25

PTA Calculations for Application: 11/807770			
Application Filing Date:	05/30/2007	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	36
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-84		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
119	08/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		84	
95	05/03/2010	MAIL NOTICE OF ALLOWANCE			
94	04/26/2010	ISSUE REVISION COMPLETED			
93	04/22/2010	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
91	04/22/2010	DOCUMENT VERIFICATION			
90	04/22/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
89	04/09/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
88	04/12/2010	EXAMINER'S AMENDMENT COMMUNICATION			
87	04/12/2010	NOTICE OF ALLOWABILITY			
85	03/30/2010	DATE FORWARDED TO EXAMINER			
84	03/26/2010	AMENDMENT AFTER FINAL REJECTION			
83	01/11/2010	ELECTRONIC REVIEW			
82	01/11/2010	EMAIL NOTIFICATION			
81	01/11/2010	EMAIL NOTIFICATION			
80	01/11/2010	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
79	01/11/2010	MAIL FINAL REJECTION (PTOL - 326)			
78	12/21/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
77	01/04/2010	FINAL REJECTION			
76	12/23/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
75	12/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT			

74	12/23/2009	CONSIDERED			
73	12/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	10/20/2009	DATE FORWARDED TO EXAMINER			
71	09/30/2009	RESPONSE AFTER NON-FINAL ACTION			
70	11/10/2008	REFERENCE CAPTURE ON IDS			
69	11/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		35	51
68	07/13/2009	ELECTRONIC REVIEW			
67	07/13/2009	EMAIL NOTIFICATION			
66	07/13/2009	MAIL NON-FINAL REJECTION			
65	07/06/2009	NON-FINAL REJECTION			
64	05/14/2009	DATE FORWARDED TO EXAMINER			
63	04/02/2009	RESPONSE AFTER NON-FINAL ACTION			
62	03/25/2009	EMAIL NOTIFICATION			
61	03/25/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
60	03/17/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	01/07/2009	ELECTRONIC REVIEW			
58	01/07/2009	EMAIL NOTIFICATION			
57	01/07/2009	MAIL NON-FINAL REJECTION			
56	01/02/2009	NON-FINAL REJECTION			
55	10/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	11/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	11/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	10/30/2008	DATE FORWARDED TO EXAMINER			
51	10/06/2008	RESPONSE AFTER NON-FINAL ACTION			
50	10/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	10/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	08/01/2008	MAIL NON-FINAL REJECTION			
46	07/21/2008	NON-FINAL REJECTION			
45	06/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	03/20/2008	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
40	07/01/2008	DATE FORWARDED TO EXAMINER			
39	06/06/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
38	06/06/2008	REFERENCE CAPTURE ON IDS			
37	06/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	06/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	05/16/2008	MAIL RESTRICTION REQUIREMENT			
33	05/15/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
32	05/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	03/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	03/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1	25
26	04/08/2008	DATE FORWARDED TO EXAMINER			
25	03/19/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
23	03/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	02/25/2008	MAIL RESTRICTION REQUIREMENT			
21	02/19/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
20	01/24/2008	PG-PUB ISSUE NOTIFICATION			
19	12/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	11/17/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	10/10/2007	PRELIMINARY AMENDMENT			
16	05/30/2007	REFERENCE CAPTURE ON IDS			
15	05/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/26/2007	APPLICATION DISPATCHED FROM OIPE			
13	10/22/2007	SENT TO CLASSIFICATION CONTRACTOR			
12	10/23/2007	FILING RECEIPT - UPDATED			
11	10/10/2007	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
10	10/10/2007	SMALL ENTITY STATEMENT (37 CFR 1.27)			
9	10/10/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	05/30/2007	CLAIM PRELIMINARY AMENDMENT			

7	07/11/2007	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	07/05/2007	CLEARED BY L&R (LARS)			
5	06/18/2007	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	06/18/2007	CASE CLASSIFIED BY OIPE			
3	06/15/2007	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
1	05/31/2007	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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MCKEON MEUNIER
CARLIN & CURFMAN LLC
817 W. PEACHTREE STREET, SUITE 900
ATLANTA GA 30308

MAILED
AUG 09 2010
OFFICE OF PETITIONS

In re Application of :
Thompson, et al. :
Application No. 11/807,771 : DECISION
Filed/Deposited: 30 May, 2007 :
Attorney Docket No. 10005-017US2 :

This is a decision on the petition filed on 23 July, 2010, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

NOTES:

Petitioner refers to a telephone conversation with someone at the Office.

Petitioner, as one registered to practice before the Office, is well aware that such a reference is improper.

By regulation, all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the only proper authorities 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 or in-person discussion may be controlling or considered authority for Petitioner's action(s).

*Moreover, Petitioner, stated in her petition that the undersigned "informed [her] *** that a statement confirming she was in possession of the application during the time it was abandoned *** should satisfy the requirements for a petition [herein]."*

Contrary to Petitioner's statement, it is not the practice of the undersigned to "inform" anyone that any action/inaction will satisfy the requirements of a regulation.

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Moreover, it is the practice of the undersigned to remind all persons inquiring that:

- *the regulations (37 C.F.R) and the guidance in the Commentary of the Manual of Patent Examining Procedure (MPEP) are controlling in such matters;*
- *all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]);*
- *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); and that*
- *no telephone discussion may be controlling or considered authority for Petitioner's action(s).*

That reminder was expressly stated in the decision of 1 July, 2010, and it is the practice of the undersigned to include that statement in his signed decisions on petition.

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.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 July, 2009, with reply due absent extension of time on or before 14 October, 2009.

The application went abandoned by operation of law after midnight 14 October, 2009.

It did not appear that the Office mailed a Notice of Abandonment before a petition was filed.

---

[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.

On 22 January, 2010, Petitioner Tina Williams McKeon (Reg. No. 43,791)filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with a reply in the form of an continuation application (Application No. 12/652,289, filed 5 January, 2010), but failed to make a proper statement of unintentional delay and further it does not appear that Petitioner either was in a position to make the statement of unintentional delay or had expressed affirmatively that a proper inquiry was made to ensure the accuracy of such a statement made. The petition was dismissed on 1 July, 2010.

(The Office mailed the Notice of Abandonment on 16 March, 2010.)

On 23 July, 2010, Petitioner, *inter alia*, re-advanced her petition pursuant to 37 C.F.R. §1.137(b)—albeit with inappropriate and inaccurate reference to conversation—and, averred unintentional delay, pointed to the reply in the form of an continuation application (Application No. 12/652,289, filed 5 January, 2010), and overcame the former deficiencies as to statement of unintentional delay and the showing that that Petitioner was:

- in control of the application at the time of abandonment; and
- thus, in a position to make the statement of unintentional delay.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 C.F.R. §1.53(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS 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).[4]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1648 for such processing as is required to reflect/record continuity and abandonment 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.

---

[4] 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.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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LESAVICH HIGH-TECH LAW GROUP, P.C.
SUITE 325
39 S. LASALLE STREET
CHICAGO IL 60603

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Application of	:	
CEKO, Lisa M.	:	
Application No. 11/807,805	:	DECISION ON PETITION
Filed: May 30, 2007	:	TO WITHDRAW
Attorney Docket No. 06,125-A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 15, 2011.

The request is **NOT APPROVED**.

The Office 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 the filing date on the petition is incorrect. (Please clarify!) 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 8, 2011

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: 11807844 Patent No.: 7753606

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

❑ **Approved**	**All** changes apply.
X Approved in Part	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: The change on the Title Page is not approved. The current title is more accurately descriptive of the allowed invention.

/Judy Nguyen/ — SPE

2854 — Art Unit

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DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA, CA 92564-0519

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
James W. Lacy	:	
Application No. 11/807,846	:	ON PETITION
Filed: May 29, 2007	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 28, 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 by the applicant's attorney that the applicant is over 65 years of age and a Declaration from applicant 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 the undersigned at 571-272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application file is being referred to the Technology Center Art Unit 3783 for further processing.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of
William Michael Frederick Taylor

Application No. 11807860

Filed: May 29,2007

Attorney Docket No. Q121771

:
:
: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 10-MAR-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON IN 47402

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Application of
David Ernest Harley et al. :
Application No. 11/807,878 : ON PETITION
Filed: May 30, 2007 :
Attorney Docket Number: PA-5970-RFB :

This is a decision on the petition, filed November 18, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned October 28, 2010 for failure to pay the issue fee in response to the Notice of Allowance mailed on July 27, 2010. Accordingly, the Notice of Abandonment was mailed on November 9, 2010.

The issue fee in the amount of $1510.00, publication fee in the amount of $300 and the petition fee in the amount of $1620 have been charged to deposit account no. 13-2528.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 8,071,072
Young et al.
Issue Date: December 6, 2011
Application No. 11/807,887
Filed: May 30, 2007
Attorney Docket No. 24525-0046001
Title: CYTOTOXICITY MEDIATION OF CELLS EVIDENCING SURFACE EXPRESSION OF CD44

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed on February 6, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred twenty-six (126) days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 8,071,072 on December 6, 2011. The patent issued with a patent term adjustment of 30 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees contest the period of adjustment of 0 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 135 days. Patentees also state an additional reduction of 39 days should be taken pursuant to 37 CFR §1.704(c)(7) for the submission of a supplemental response on December 7, 2009.

As to patentees' arguments regarding the 39 day reduction, patentees' argument is untimely. Issues that should have been raised on application for patent term adjustment under 37 CFR 1.705(b) are untimely if first raised on request for

reconsideration under 37 CFR 1.705(d). Issues under 37 CFR 1.705(d) are those tied to the revised determination calculated after the mailing of the notice of allowance. As such challenges to calculations determined prior to the notice of allowance (and reflected in the determination sent with the notice of allowance) are untimely when first presented under 1.705(d). Patentees are reminded that patent term can be disclaimed with a statutory disclaimer at any time after issuance of the patent.

Patentees' arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 0 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the

period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of

patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, No. 07-1492, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by

the time it takes to prosecute the application. To mitigate this First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[1]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is

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[1] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

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 issuance

of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[2] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

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[2] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

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 view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,759,514	:	
Issue Date: July 20, 2010	:	
Application No. 11/807,927	:	ON PETITION
Filed: May 29, 2007	:	
Attorney Docket No. 60742C(71250)	:	

This is a decision on the petition filed August 3, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

A petition under 37 CFR 3.81 requires a fee of $130. As such, this fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Novak Druce + Quigg LLP
300 New Jersey Ave, NW
Fifth Floor
Washington DC 20001

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JUN 30 2011
OFFICE OF PETITIONS

In re Application of

Kienzle, et al. :

Application No. 11/808,183

: DECISION ON PETITION

Filed: June 7, 2007

:

Attorney Docket No. **8369.050.US0000**

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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, September 1, 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 December 2, 2010. A Notice of Abandonment was mailed March 9, 2011.

The amendment filed May 9, 2011, is noted.

The application is being forwarded to Technology Center 1700, GAU 1731 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

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Alexandria, VA 22313-1450
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Decision Date : June 9,2011

In re Application of :

Naoyuki Kobayashi

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11808231

Filed : 07-Jun-2007

Attorney Docket No : 126088.03

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 9,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2882 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	11808231
Filing Date	07-Jun-2007
First Named Inventor	Naoyuki Kobayashi
Art Unit	2882
Examiner Name	HUNG NGUYEN
Attorney Docket Number	126088.03
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	/Brian K. Kauffman/
Name	Brian K. Kauffman
Registration Number	63199

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ARENT FOX LLP
Suite 400
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Hector Eduardo Sibilla	:	
Application No. 11/808,253	:	DECISION ON PETITION
Filed: June 7, 2007	:	TO WITHDRAW
Attorney Docket No. 026254-00053	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 1, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard J. Berman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Hector Eduardo Sibilla at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Hector Eduardo Sibilla**
AV. Del Golfo 280-Salta-
Prov De Salta, Argentina
De Salta, Argentina

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/808,253	06/07/2007	Hector Eduardo Sibilla	026254-00053

CONFIRMATION NO. 4037

POWER OF ATTORNEY NOTICE

ARENT FOX LLP
Suite 400
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

OC000000043579777

Date Mailed: 09/17/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application
Krowas, et al.
Application No. 11/808,261
Filed: June 7, 2007
Attorney Docket No. 2566-333

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This letter is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT", filed August 29, 2011. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred sixty-five (565) days to six hundred fifty-five (655) days.

The application for patent term adjustment is **DISMISSED**.

On May 27, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred sixty-five (565) days. On August 29, 2011, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is six hundred fifty-five (655) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

[1] Applicants filed the application for patent term adjustment on the same date as the issue fee.

The Office initially determined a patent term adjustment of five hundred sixty-five (565) days based on an adjustment for PTO delay of five hundred sixty-five (565) days pursuant to 37 C.F.R. § 1.703(a)(1), reduced by zero days of Applicant delay.

Applicants argue that the Office should be accorded and additional ninety (90) days of PTO delay pursuant to 37 CFR 1.703(a)(2). Applicants assert that because the Office withdrew a January 28, 2011 final Office action on March 17, 2011, the clock should not have stopped under 37 CFR 1.703(a)(2) on January 28, 2011, but instead should have stopped on May 27, 2011, the date the Office mailed the Notice of Allowance. Applicants' argument has been considered, but is not persuasive.

The USPTO appreciates that there may be situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action. However, these would be extremely rare situations, such as the issuance of an Office action or notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance of an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the USPTO had never issued the Office action are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application. That is simply not the case here.

Pursuant to 35 U.S.C. § 154(b)(1)(A)(i)(ii), patentees are entitled to day-to-day adjustment if the USPTO does not respond to a reply under section 132 , within 4 months after the date on which the reply was filed. The record of the instant application indisputably indicates that the USPTO did respond with the mailing of a final Office action on January 28, 2011. The fact that the Office later withdrew that Office action does not negate the fact that the Office responded within the meaning of 35 U.S.C. § 154(b)(1)(A)(ii) and 37 CFR 1.703(a)(2) on January 28, 2011. Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term adjustment, the final Office action mailed on January 28, 2011 was properly used to determine whether the USPTO delayed the issuance of the instant application by responding to a reply under section 132 within 4 months after the date on which the reply was filed. *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 Fed. Reg. 54366 (Sept. 18, 2000) (final rule).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred sixty-five (565)** days (565 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 file is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUAN CARLOS A. MARQUEZ
C/O STITES & HARBISON, PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314-1437

MAILED
JAN 3 1 2011
OFFICE OF PETITIONS

In re Application of Toshiyuki Saito, et al. Application No. 11/808,336 Filed: June 8, 2007 Attorney Docket No. HITA-0982	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed January 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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 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 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
CHENG, Chiu-Hao	:	
Application No. 11/808,438	:	DECISION DISMISSING PETITION
Filed: June 11, 2007	:	UNDER 37 CFR 1.78(a)(3)
Docket No. CHEN4143CIP/JJC/KDW	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 3, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications, and under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of prior-filed foreign applications.

The petition is **DISMISSED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional 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 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. No amendment has been presented to identify prior application serial number 09/736,221, therefore the provisions of 37 CFR 1.78(a)(2)(i) are not complied with.

Before the petition under 37 CFR §§ 1.78(a)(3) 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.

As to the benefit claim under 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) and (5) 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.

The file record of the above-identified application also fails to show that the nonprovisional application 10/625,983 was filed within 12 months of the filing date of the foreign application. The file record of 10/625,983 suggests that nonprovisional application 09/736,221 may be relevant to this period. If so, the nonprovisional application should be included in the priority claim of the instant application

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

BACON & THOMAS, PLLC
625 SLATERS LANE
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ALEXANDRIA VA 22314-1176

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Application of	:	
CHENG, Chiu-Hao	:	
Application No. 11/808,438	:	DECISION DISMISSING PETITION
Filed: June 11, 2007	:	UNDER 37 CFR 1.78(a)(3)
Docket No. CHEN4143CIP/JJC/KDW	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 31, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications, and under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of prior-filed foreign applications.

The petition is **DISMISSED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1). The Application Data Sheet is not signed. 37 CFR 1.33(b) requires amendments and other papers, except for written assertions pursuant to 37 CFR

1.27(c)(2)(ii), filed in an application must be signed an appropriate party. Therefore, an ADS, supplemental ADS, or an amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Before the petition under 37 CFR §§ 1.78(a)(3) 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.

As to the benefit claim under 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). In this regard, the Application Data Sheet is not signed. An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered.

Note, the Application Data Sheet improperly cites the incorrect filing date for Taiwan application 89204639U as May 22, 2000. The correct filing date should be March 22, 2000.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

David Buccei
Petitions Examiner
Office of Petitions

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ALEXANDRIA VA 22314-1176

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of	:	
CHENG, Chiu-Hao	:	
Application No. 11/808,438	:	DECISION ON PETITIONS
Filed: June 11, 2007	:	UNDER 37 CFR 1.78(a)(3)
Docket No.: CHEN4143CIP/JJC/KDW	:	AND 37 CFR 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 8, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed Application Data Sheet.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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 of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

As to the benefit claim under 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.

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred the Office of Data Management for processing the application into a patent and notification of applicant's claim benefit of priority under 35 U.S.C. § 120 and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Christopher Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/808,438	06/11/2007	3714	800	CHEN4143CIP/JJC/KDW	7	3

CONFIRMATION NO. 5423

CORRECTED FILING RECEIPT

23364
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

OC000000049049489

Date Mailed: 07/29/2011

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)

Chiu-Hao Cheng, Chungho City, TAIWAN;

Power of Attorney:

J Kenney--19179
Eugene Mar--25893
Richard Fichter--26382
Joseph De Benedictis--28502
Thomas Moore--28974
Chung Chin Chen--31725
Benjamin Urcia--33805

Domestic Priority data as claimed by applicant

This application is a CIP of 10/625,983 07/23/2003 ABN
which is a DIV of 09/736,221 12/15/2000 PAT 6,616,534

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.)
TAIWAN 88221451 12/16/1999
TAIWAN 89204639 03/22/2000
TAIWAN 89206816 04/26/2000

If Required, Foreign Filing License Granted: 07/11/2007
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/808,438**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **
Title

BUTTON STRUCTURE FOR GAME CONTROLLER

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).

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MARTIN D. MOYNIHAN D/B/A PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Ron Firm et al	:	
Application No. 11/808,492	:	NOTICE
Filed: June 11, 2007	:	
Attorney Docket No. 38000		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Application of
Kuo et al.
Application No. 11/808,510
Filed: June 11, 2007
Attorney Docket No.
1875.9530001
Title: SINGLE CHIP CABLE SET-TOP BOX SUPPORTING DOCSIS SET-TOP GATEWAY (DSG) PROTOCOL AND HIGH DEFINITION ADVANCED VIDEO CODEC (HD AVC) DECODE

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 October 6, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 9, 2010, which set a shortened statutory period for reply of three months. An after-final amendment was received on May 4, 2011 along with a three-month extension of time so as to make timely the submission, and an advisory action was mailed on May 27, 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 May 10, 2011. A notice of abandonment was mailed on June 22, 2011.

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

On October 6, 2011, Petitioner filed a Request for Continued Examination (RCE) along with the associated fee, an amendment, the petition fee, and a statement that is being construed as the proper statement of unintentional delay. The amendment filed on October 6, 2011 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on October 6, 2011 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/808,673	06/12/2007	Toshiyuki Namioka	007898-0361201	7740

7590 08/03/2011
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
THOMAS, JASON M

ART UNIT	PAPER NUMBER
2423	

NOTIFICATION DATE	DELIVERY MODE
08/03/2011	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

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

Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of	:	
Yim et al.	:	
Application No. 11/808,750	:	DECISION ON PETITION
Filed: June 12, 2007	:	PURSUANT TO
Attorney Docket No.: 1901.1175	:	37 C.F.R. § 1.181(A)
Title: MULTITASKING METHOD AND	:	
APPARATUS FOR RECONFIGURABLE	:	
ARRAY	:	

This is a decision on the petition filed December 16, 2011, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 13, 2011, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 14, 2011. A notice of abandonment was mailed on November 1, 2011.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is

required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(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.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by

the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has stated that the Office action was not received at the correspondence address of record,[1] and has provided a copy of the master docket for the relevant time period, a copy of the docket report that is associated with this particular application, and a mail-log for the relevant time period. Petitioner has further established that he performed a search of "practitioner's records, including any file jacket or the equivalent, and the application contents" and the relevant Office communication was not located therein.[2]

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

First, the statement of Mr. Berry which was included with this petition describes the system used for recording an Office

1 Petition, page 1.
2 Id.

action received at the correspondence address of record with the USPTO, however the statement is insufficient to describe the docketing system to such a degree so as to establish the reliability of the same. Petitioner has established that incoming mail is opened, date-stamped, "separated into a specific file," delivered to the manager of the law firm's Docketing Department, and a response-date is docketed in the law firm's docketing database if appropriate, and then "passed to the responsible attorney."[3] It is not clear how this docketing system serves to apprise members of the law firm that a response date is coming due. The record suggests, but does not explicitly state, that the docketing system sends daily e-mails which contain a listing of matters which must be attended to on that date.[4] On renewed petition, this matter should be further developed, and it should be indicated to whom these e-mails are sent.[5]

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

Statements based on hearsay will not normally be accepted.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries

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3 Berry declaration of facts, paragraph 3.
4 Berry declaration of facts, paragraph 4 and an attachment which consists of a ten-page print-out of an e-mail which is dated July 13, 2011.
5 It is noted that this e-mail was sent to two groups entitled "Attorneys" and "Secretaries."
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

concerning examination procedures should be directed to the Technology Center.

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
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Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

JAN 20 2012

OFFICE OF PETITIONS

In re Application of	:	
Yim et al.	:	DECISION ON RENEWED PETITION
Application No. 11/808,750	:	PURSUANT TO
Filed: June 12, 2007	:	37 C.F.R. § 1.181(A)
Attorney Docket No.: 1901.1175	:	
Title: MULTITASKING METHOD AND	:	
APPARATUS FOR RECONFIGURABLE	:	
ARRAY		

This is a decision on the renewed petition filed January 13, 2012, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 13, 2011, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 14, 2011. A notice of abandonment was mailed on November 1, 2011.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 16, 2011, where Petitioner indicated that the Office

action was not received at the correspondence address of record,[1] and provided a copy of the master docket for the relevant time period, a copy of the docket report that is associated with this particular application, and a mail-log for the relevant time period. Petitioner further established he performed a search of "practitioner's records, including any file jacket or the equivalent, and the application contents" and the relevant Office communication was not located therein.[2]

The original petition pursuant to 37 C.F.R. § 1.181 was dismissed via the mailing of a decision on January 3, 2012. With this renewed petition, Petitioner has established the law firm's docketing system sends daily e-mails which contain a listing of matters which must be attended to on that date.[3]

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the non-final Office action of April 13, 2011 was not received, pursuant to MPEP § 711.03(c).

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 re-mail the non-final Office action of April 13, 2011, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted 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.[4] All other inquiries

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1 Original petition, page 1.
2 Id.
3 Berry declaration of facts submitted with renewed petition, paragraph 3.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/808,763	06/12/2007	Luc Orion	SCS-550-938	7234

23117 7590 04/27/2011
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
HUISMAN, DAVID J

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
04/27/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of: ORION et al.
Application No. 11/808,763
Attorney Docket #: **SCS-550-938**
Filed: June 12, 2007
For: DATA PROCESSING APPARATUS AND METHOD FOR REDUCING ISSUE CIRCUITRY RESPONSIBILITY BY USING A PREDETERMINED PIPELINE STAGE TO SCHEDULE A NEXT OPERATION IN A SEQUENCE OF OPERATIONS DEFINED BY A COMPLEX INSTRUCTION

DECISION ON PETITION

This is a decision on the petition filed on October 1, 2010, under 37 CFR 1.181(a) to invoke Supervisory Authority requesting that to have examiner accept the amendment to the title in the amendment filed on April 8, 2010, or have examiner propose a title that examiner believed was more descriptive.

A review of the file wrapper record shows that a Notice of Allowance was mailed on March 18, 2011, wherein the examiner has provided an amendment to the title.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181 in this application, is rendered moot.

Accordingly, the Petition is **DISMISSED as moot**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan, WQAS
Technology Center 2100
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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED
FEB 18 2011
OFFICE OF PETITIONS

In re Application of	:	
David S. WILLIAMS	:	
Application No. 11/808,849	:	DECISION GRANTING PETITION
Filed: June 13, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **132828**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 18, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 20, 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 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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
OCT 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Thomas W. NOVAK, et *al.*	:	
Application No. 11/808,850	:	DECISION GRANTING PETITION
Filed: June 13, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **123702.01**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 20, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DON K. HARMS
PATENT & TRADEMARK LAW CENTER
SUITE 100
12702 VIA CORTINA
DEL MAR CA 92014

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Anthony CALVERT	:	
Application No. 11/809,001	:	DECISION ON PETITION
Filed: May 30, 2007	:	
Docket No. 3681-PAT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 5, 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 April 6, 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) and the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3673 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

MR. JUNZHONG LIANG, PH.D.
45 KOOTENAI DRIVE
FREMONT CA 94539

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Liang :
Application No. 11/809,021 : ON PETITION
Filed: May 30, 2007 :
Attorney Docket No. N/A :
For: METHODS AND APPARATUS FOR IMPROVING VISION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 30, 2010, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed August 21, 2009, which set a one month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on September 22, 2009. A Notice of Abandonment was mailed on March 8, 2010.

Petitioner has filed a reply to the August 21, 2009 Restriction Requirement, an acceptable statement of the unintentional nature of the delay in responding to the August 21, 2009 Restriction Requirement, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 2873 for consideration of the reply filed on May 10, 2010.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 4,2011

In re Application of :

Emigliano Campus

Application No : 11809082

Filed : 31-May-2007

Attorney Docket No : 744.1020

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed May 4,2011 , to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to 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 Patent Publication.

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	11809082
Filing Date	31-May-2007
First Named Inventor	Emigliano Campus
Art Unit	3617
Examiner Name	JASON SMITH
Attorney Docket Number	744.1020
Title	LATERAL FACE OF A RAIL VEHICLE BODY

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications;
(4) Statement that the entire delay was unintentional.

Petition fee
The petition fee under 37CFR 1.17(m) is attached.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☐ Applicant(s) status remains as SMALL ENTITY.

☒ Applicant(s) status remains as other than SMALL ENTITY.

Issue Fee and Publication Fee :

Issue Fee and Publication Fee must accompany ePetition.

☒ Issue Fee Transmittal is attached

Drawing corrections and/ or other deficiencies.

- (●) Drawing corrections and/ or other deficiencies are not required
- ( ) I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ( ) Drawing corrections and/ or other deficiencies are attached.
- [x] STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- (●) An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ( ) An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ( ) A sole inventor
- ( ) A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ( ) A joint inventor; all of whom are signing this e-petition.
- ( ) The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Jennifer L. O'Connell/
Name	Jennifer L. O'Connell
Registration Number	57392

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P.O. BOX 2938
MINNEAPOLIS, MN 55402

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SEP 14 2010

OFFICE OF PETITIONS

In re Application of
Kent S. Miller
Application No. 11/809,098
Filed: May 31, 2007
Attorney Docket No. 339.058US1

DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed June 30, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 5, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner attests that the actions or inactions of his attorney cause the application to go abandoned.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> 'The word 'unavoidable'...is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in to their most important business. It permits them in the exercise of this care to rely on the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees and such other means instrumentalities are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly to be said to be unavoidable, all other conditions of promptness in its rectification being present."

In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Windklet v. Ladd, 221 F. supp. 550, 552, 138 USPQ 666, 167-68(D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 USPQ 977, 982 (D.C. Cir 1982.). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The record indicates that Hugh Jaeger was responsible for prosecution of the above-identified application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from Mr. Jaeger explaining why action was not timely taken to prevent the above-identified application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to Mr. Jaeger, by certified or registered mail (return receipt requested) indicating that the Patent and Trademark office is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the Patent and Trademark Office is requesting that Mr. Hugh Jaeger provide within a specified period (*e.g.,* one month) a statement setting forth why appropriate action was not timely taken to prevent abandonment of the above-identified application from becoming abandoned. Petitioner is advised that in the event that Mr. Jaeger does not provide such a statement, petitioner should submit a copy of such letter and the return receipt.

The USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987); California, *supra*. Specifically, petitioner's delay caused by the mistakes or omissions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. See Haines v. Quigg, *supra*; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

While the showing of the record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of the unintentional delay.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Petitioner is advised to send a letter (accompanied by a copy of this decision) to Mr. Jaeger, by certified or registered mail (return receipt requested) indicating that the Patent and Trademark office is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the Patent and Trademark Office is requesting that Mr. Hugh Jaeger provide within a specified period (*e.g.*, one month) a statement setting forth why appropriate action was not timely taken to prevent abandonment of the above-identified application from becoming abandoned. Petitioner was advised that in the event that Mr. Jaeger does not provide such a statement, petitioner should submit a copy of such letter and the return receipt.

Petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving disputes between applicants and their representatives. See Ray v. Lehman, 55 F.3d 606,34 USPQ2d 1786 (Fed. Cir. 1995).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of	:	
Kent S. Miller	:	
Application No. 11/809,098	:	DECISION ON PETITION
Filed: May 31, 2007	:	
Attorney Docket No. 339.058US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 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, April 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $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 3611 for appropriate action by the Examiner in the normal course of business on the reply received August 18, 2010.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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NOV 17 2010

OFFICE OF PETITIONS

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2nd FLOOR
DULUTH, GA 30096

In re Application of Robin I.G. Angus Application No. 11/809,108 Filed: March 31, 2007 Attorney Docket No.: 13382.00	: : : : :	ON PETITION

This is a decision in response to the petition, filed September 9, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 22, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 23, 2010. A Notice of Abandonment was mailed on September 1, 2010. On September 9, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3653 for appropriate action by the Examiner in the normal course of business on the reply received September 9, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LAURA N. TUNNELL
P.O. BOX 6003
SANTA BARBARA, CA 93160

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AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Albert Murillo	:	DECISION ON PETITION
Application No. 11/809,142	:	TO WITHDRAW
Filed: May 30, 2007	:	FROM RECORD
Attorney Docket No. 07MURI	:	

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 30, 2010.

The request is **NOT APPROVED**.

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 current request does not set forth the following certifications: (2) and (3)above. Accordingly, any subsequent requests must include all of the above listed certifications pursuant to 37 CFR 10.40.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed June 10, 2010, that requires a reply from the 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

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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MAR 22 2011
OFFICE OF PETITIONS

In re Application of
Flores, et al.
Application No. 11/809,196
Filed: May 30, 2007
Attorney Docket No. 3005-70822-04

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 9, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

Nonprovisional Application No. 11/384,088 was filed on March 17, 2006, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/663,557, which was filed on March 18, 2005, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an

statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(6) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Because the proposed amendment will not be entered and the issue fee has already been paid, any request for reconsideration of the matter would require the submission of a petition to withdraw (including fee) from issue along with an RCE (including fee and submission) as a condition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3).

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 Attorney Advisor Alesia M. Brown at (571) 272-3205.

Chris Bottorff
Supervisor
Office of Petitions

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APR 08 2011

OFFICE OF PETITIONS

In re Application of
Andres H. La Rosa, et al.
Application No. 11/809,196
Filed: May 30, 2007
Attorney Docket No. 3005-70822-04

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 April 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 February 10, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 2856 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of Flores, et al. Application No. 11/809,196 Filed: May 30, 2007 Attorney Docket No. 3005-70822-04	DECISION ON PETITION UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 7, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.

§119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2856 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.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/809,196	05/30/2007	2856	880	3005-70822-04	18	2

CONFIRMATION NO. 1002

CORRECTED FILING RECEIPT

24197
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

OC000000048050578

Date Mailed: 06/06/2011

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)

Andres H. La Rosa Flores, Beaverton, OR;
Richard Nordstrom, Hillsboro, OR;
Sudhaprasanna Kumar Padigi, Portland, OR;

Assignment For Published Patent Application

The State of Oregon acting by and through the State Board of Higher Education on Behalf of Portland State University

Power of Attorney: The patent practitioners associated with Customer Number 24197

Domestic Priority data as claimed by applicant

This application is a CIP of 11/384,088 03/17/2006
which claims benefit of 60/663,577 03/18/2005
This application 11/809,196
claims benefit of 60/809,541 05/30/2006

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: 06/29/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/809,196**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

WHISPERING GALLERY MODE ULTRASONICALLY COUPLED SCANNING PROBE MICROSCOPY

Preliminary Class

073

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAR 01 2011

OFFICE OF PETITIONS

DLA Piper LLP (US)
2000 University Avenue
East Paolo Alto, California 94303-2248

In re Application of	:	
Christopher DENG et al.	:	DECISION GRANTING PETITION
Application No. 11/809,267	:	UNDER 37 CFR 1.137(b)
Filed: 30 May 2007	:	
Atty. Docket No.: 373752-991160	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 13 January 2011, to revive the above-identified application ("Application").

The petition is **GRANTED**.

The Application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed October 1, 2010 ("Notice"), which set a statutory reply period of three (3) months. The application thus became abandoned on January 2, 2011, with notification mailed January 25, 2011.

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 payment of the Issue and Publication fees, (2) a petition fee of $1620, and (3) a Statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

The application file will be referred to Office of Data Management for further action on the filed Response.

David Buecil
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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ANTHONY S. LEANZA
27396 SPRAGUE ROAD
OLMSTED TOWNSHIP OH 44138

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of
Anthony Leanza.
Application No 11/809,311
Filed: May 31, 2007
Title: ILLUMINATED CLIPBOARD WITH REMOVABLE LIGHT SOURCE

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 5, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 6, 2010. A 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 an amendment; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2885 for processing in the normal course of business.

Charlema Grant
Petitions Attorney
Office of Petitions

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CHARLES N.J. RUGGIERO
OHLANDT GREELEY RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of
George S. JARMON, *et al.*
Application No. 11/809,494
Filed: June 1, 2007
Attorney Docket No. **460.2131USXV**

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 11, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The 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.

Also, 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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 decision may be directed to Monica A. Graves at (571) 272-7253. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center at (571) 272-3700.

This application is being forwarded to Technology Center Art Unit 3726 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.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application	:	
Mahesh Lalwani	:	DECISION ON PETITION
Application No. 11/809,522	:	TO WITHDRAW
Filed: June 1, 2007	:	FROM RECORD
Attorney Docket No. 626082000100	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 16, 2008 and supplemented on July 1, 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 Morrison & Foerster LLP was never appointed power of attorney in this patent application and however, was only designated as the correspondence address of record. Therefore, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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STEMER LLP
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HOLLYWOOD FL 33022-2480

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MAR 05 2012
OFFICE OF PETITIONS

In re Application of :
Gaag, et al. :
Application No. 11/809,575 : DECISION
Filed/Deposited: 1 June, 2007 :
Attorney Docket No. DSC-DP-1955 :

This is a decision on the papers filed on 9 February, 2012, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

Petitioner failed to track and submit the narrative and documentary showing requirements under the Rule and expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

The Office has reviewed the record and satisfied itself as to the facts herein.

However, Petitioner—as one registered to practice before the Office—is aware that Rules of Practice and the guidance in the Commentary in the MPEP provide protections and benefits for applicants and practitioners, however, those protections and benefits may be unavailable when those rules are not complied with/followed.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the decision of the Board of Patent Appeals and Interferences mailed on 30 November, 2011, with reply due absent extension of time on or before 30 January, 2012.

The application went abandoned by operation of law after midnight 30 January, 2012.

The Office mailed the Notice of Abandonment on 31 January, 2012.

On 9 February, 2012, Petitioner Laurence A. Greenburg (Reg. No. 28,308) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181, with an averment of timely filing of a reply on 30 January, 2012. Petitioner appears, however, not to have complied with the narrative and documentary showings required under the Rule. Petitioner, as one registered to practice before the Office is aware that the Rules of Practice and the guidance in the Commentary in the MPEP provide protections and benefits for applicants and practitioners, however, those protections and benefits may be unavailable when those rules are not complied with/followed. (A review of the record evidences that on 30 January, 2012, Petitioner filed a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment. Further, because extension of time was available, the mailing by the Office of the Notice of Abandonment also was premature.) Again, though Petitioner failed to work through the showing required as set forth in the guidance in the Commentary at MPEP §711.03(c)(I), the Office has reviewed the record.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing

that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[1] *See*: MPEP §711.03(c) (I)(B).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter.

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted**, and the 31 January, 2012, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 1735 for further processing in due course.

Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[6] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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ARTHUR G. YEAGER, ESQ.
1301 RIVERPLACE BOULEVARD
SUITE 1916
JACKSONVILLE FL 32207

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Ingo Krieg	:	DECISION ON PETITION
Application No. 11/809,640	:	TO WITHDRAW
Filed: June 2, 2007	:	FROM RECORD
Attorney Docket No. D-7679	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 2011.

The request is **NOT APPROVED**.

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 Arthur G. Yeager on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number, the Request must reflect withdrawal of practitioners associated with the same Customer Number.

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 October 1, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

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ARTHUR G. YEAGER, ESQ.
1301 RIVERPLACE BOULEVARD
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MAILED
APR 01 2011
OFFICE OF PETITIONS

In re Application of Ingo Krieg Application No. 11/809,640 Filed: June 2, 2007 Attorney Docket No. D-7679	: : : : :	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 March 1, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Arthur G. Yeager on behalf of all attorneys of record who are associated with Customer Number 44885.

All attorneys/agents associated with the Customer Number 44885 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Ingo Krieg
P.O. Box 466
Ponte Vedra Beach, FL 32004

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WILEY HORTON
215 SOUTH MONROE STREET
2ND FLOOR
TALLAHASSEE FL 32301

In re Application of	:	
Ajay CHADHA	:	
Application No. 11/809,654	:	DECISION ON PETITION
Filed: June 01, 2007	:	
Attorney Docket No. 20290-17953	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 01, 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)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). Accordingly, the application became abandoned on December 02, 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 $810.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 13/084,190 filed April 11, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1771 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Paper No.

QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

MAILED
DEC 19 2011
OFFICE OF PETITIONS

Patent No. 7,892,554	:	DECISION ON REQUEST
Issue Date: February 22, 2011	:	FOR RECONSIDERATION OF
Application No. 11/809,773	:	PATENT TERM ADJUSTMENT
Filed: June 1, 2007	:	UNDER 37 CFR 1.705(d)
Atty Docket No. 305J-895031US	:	
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705" filed December 8, 2011.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

37 CFR 1.705(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.

On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR § 1.705(d). See *Interim*

Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. §154(b)(2)(A), 75 Fed. Reg. 5043 (Feb. 1, 2010)(notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept <u>any</u> requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. § 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. § 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

The instant patent issued on February 22, 2011. The instant request for reconsideration of patent term adjustment under 37 CFR 1.705(d) was filed on December 8, 2011, more than nine months later. As this request was filed more than 2 months after patent grant, it is appropriate to dismiss the petition as untimely. Further, it is noted that as the request was filed more than 180 days after patent grant, it would not be appropriate to grant any request for waiver of the time limit.

In view thereof, the time requirement of 37 CFR 1.705(d) is not met. The petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,892,554 is dismissed as untimely filed.

Receipt of the $200 fee for consideration of the request for reconsideration of patent term adjustment is acknowledged.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEVEN STUPP
918 WOODLAND AVE
SAN CARLOS CA 94070

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Application of	:	
Stupp, et al.	:	
Application No. 11/809,807	:	ON PETITION
Filed: May 31, 2007	:	
Attorney Docket No. MON 0707	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 23, 2011.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee and publication in response to the Notice of Allowance mailed July 11, 2011, which set a statutory period for reply of three months. No issue and publication fee having been received, the application became abandoned by operation of law on October 12, 2011. The Office mailed a Notice of Abandonment on October 26, 2011.

With the instant petition, petitioner argues that he timely filed $1170 for the issue and publication fee. In support thereof, petitioner has included a USPTO date stamped, postcard receipt, showing that $1170 was received on October 11, 2011. Petitioner has also included copies of money order receipts for two money orders totaling $1170 (one for $170, and one for $1000).

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, the holding of abandonment is withdrawn.

Receipt of the $1000, submitted with the instant petition, is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff

Cliff Congo
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO IL 60606-1080

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Bugenhagen :
Application No. 11/809,910 :
Filed: May 31, 2007 :
Attorney Docket No. 11000060-0198:
Title: SYSTEM AND METHOD FOR :
DYNAMICALLY SHAPING NETWORK :
TRAFFIC :

LETTER REGARDING
PATENT TERM ADJUSTMENT

This is a decision on the "REQEUST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed July 14, 2010. Applicant requests that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from three hundred and eighty-three (383) days to four hundred and four (404) days.

The request for reconsideration of the 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 **three hundred and twenty-nine (329)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) was mailed on April 15, 2010, with an indication that the patent term adjustment to date was 383 days.

Applicant has disputed two periods of delay.

Applicant has indicated that any patent issuing from the application is not subject to a terminal disclaimer.[1]

The first period in dispute is the failure to accord any Office delay pursuant to 37 C.F.R. § 1.703(a)(2), which requires the Office to adjust the patent term by "[t]he number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first." See also 37 C.F.R. § 1.702(a)(2). A response to a non-final rejection was received on December 29, 2009, a first notice of allowance was mailed on April 15, 2010, and a second notice of allowance was mailed on July 13, 2010, which is 75 days after the four-month anniversary of the submission of the December 29, 2009 response. The Office accorded no adjustment, as the first notice of allowance was timely mailed. Applicant argues that an adjustment of 75 days should have been accorded, due to the fact that the "issuance of the second Notice of Allowance vacated the first Notice of Allowance."[2]

Applicant's argument has been considered and has been found to be unpersuasive. In light of the application history, it has been determined that no period of adjustment for Office delay pursuant to 37 C.F.R. § 1.702(a)(2) is warranted. It is undisputed that the Office mailed an action under 35 U.S.C. 132 in the form of a notice of allowance on April 15, 2010, within four months of the reply under 37 C.F.R. 1.111 filed December 29, 2009. The subsequent mailing of another notice of allowance under 35 U.S.C. 151 does not alter the date used in the calculation of the period of adjustment. Pursuant to 35 U.S.C. 154(b)(1)(A)(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the Office, after four months from the filing of the reply under 37 C.F.R. 1.111 or appeal taken. The fact that the Office later withdrew the first notice of allowance does not negate the fact that the Office took action within the meaning of 37 C.F.R. 1.702(a)(2) on April 15, 2010. Thus, it is correct for the Office to use the date of April 15, 2010 in calculating the period of adjustment, if any, due to the examination delay pursuant to 37 C.F.R. 1.702(a)(2) and 1.703(a)(2). See Changes to Implement Patent Term Adjustment under Twenty-year Patent

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[1] Id. at 2.
[2] Petition, page 2.

Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, no period of adjustment to the patent term pursuant to 37 C.F.R. 1.702(a)(2) will be entered.

The second period in dispute is the reduction of 44 days associated with the submission of a supplemental reply on February 11, 2010, pursuant to 37 CFR § 1.704(c)(8), which indicates that the submission of a supplemental reply, other than a supplemental reply expressly requested by the examiner, after a reply has been filed, will result in a period of adjustment set forth in § 1.703, and the reduction will constitute 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. Applicant implicitly asserts that the period of reduction should have been 98 days, as a subsequent supplemental reply was filed on April 6, 2010.[3]

Applicant's argument has been considered and has been found to be persuasive. It is noted in passing that the Information Disclosure Statement that was submitted on April 6, 2010 does not include the language contained in 37 C.F.R. § 1.704(d).[4]

The reduction of 44 days has been removed and a reduction of 98 days has been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is three hundred and twenty-nine (329) days (427 days of Office delay minus 98 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

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[3] Id. at 3.

[4] "A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement."

Applicant is 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 Applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Friday
Date: 8/27/2010

PALM INTRANET

Time: 15:14:06

PTA Calculations for Application: 11/809910			
Application Filing Date:	05/31/2007	PTO Delay (PTO):	427
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	44
Post-Issue Petitions:	0	Total PTA (days):	329
PTO Delay Adjustment:	-54		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	08/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		54	
66	04/15/2010	MAIL NOTICE OF ALLOWANCE			
65	04/14/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	04/14/2010	ISSUE REVISION COMPLETED			
63	04/14/2010	DOCUMENT VERIFICATION			
62	04/12/2010	NOTICE OF ALLOWABILITY			
61	04/06/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	02/11/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	01/20/2010	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	04/06/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	02/11/2010	REFERENCE CAPTURE ON IDS			
56	02/11/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		44	50
54	02/11/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	01/20/2010	REFERENCE CAPTURE ON IDS			
52	01/20/2010	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
51	02/02/2010	DATE FORWARDED TO EXAMINER			
50	12/29/2009	RESPONSE AFTER NON-FINAL ACTION			
49	01/20/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	10/08/2009	CASE DOCKETED TO EXAMINER IN GAU			

47	10/01/2009	MAIL NON-FINAL REJECTION	427		-1
46	09/29/2009	NON-FINAL REJECTION			
45	09/17/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	09/17/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	09/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	09/17/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	07/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	05/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	08/18/2009	CASE DOCKETED TO EXAMINER IN GAU			
34	06/30/2009	CASE DOCKETED TO EXAMINER IN GAU			
33	01/22/2009	CORRESPONDENCE ADDRESS CHANGE			
32	11/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
31	11/06/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
30	11/04/2008	CORRESPONDENCE ADDRESS CHANGE			
29	09/30/2008	REFERENCE CAPTURE ON IDS			
28	09/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	09/17/2008	REFERENCE CAPTURE ON IDS			
26	09/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	07/02/2008	REFERENCE CAPTURE ON IDS			
24	07/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	05/15/2008	REFERENCE CAPTURE ON IDS			
22	05/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	09/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	05/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

17	06/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
16	02/28/2008	PG-PUB ISSUE NOTIFICATION			
15	02/13/2008	CASE DOCKETED TO EXAMINER IN GAU			
14	02/13/2008	CASE DOCKETED TO EXAMINER IN GAU			
13	10/19/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	10/10/2007	APPLICATION DISPATCHED FROM OIPE			
11	09/21/2007	SENT TO CLASSIFICATION CONTRACTOR			
10	09/21/2007	APPLICATION IS NOW COMPLETE			
9	09/07/2007	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	09/07/2007	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	09/07/2007	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	07/03/2007	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/23/2007	CLEARED BY OIPE CSR			
2	06/20/2007	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/04/2007	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/809,974	06/04/2007	Milton Massey Frazier	50W8730.01	2504

36738 7590 05/05/2011
ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO, CA 92101

EXAMINER
ROJAS, HAJIME S

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
05/05/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAY - 5 2011

ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO CA 92101

In re Application of: Milton Frazier et al.	:	**PETITION TO WITHDRAW**
Application No. 11/809,974	:	**RESTRICTION REQUIREMENT**
Filed: June 4, 2007	:	**UNDER 37 C.F.R. 1.144**
For: SYSTEM AND METHOD FOR	:	
TRANSFER OF DIGITAL MEDIA	:	

This is in response to applicants' petition filed on January 03, 2011 under 37 C.F.R. 1.144 to request reconsideration of the October 7, 2010 restriction requirement, and the withdrawal of claims 17-19.

The petition is **GRANTED to the extent stated below**.

Applicants allege that the restriction requirement dated October 7, 2010 is improper and should be withdrawn because the examiner failed to meet the criteria set forth in MPEP 802.01 and 806.05(c) in orderly to properly support a restriction by demonstrating that the inventions of claims 17-19 are independent and distinct from other claims, and that there will be a serious burden if restriction is not required. Applicants argue that the ASE-to-ASE accounting including use of a ledger of claims 17-19 was presented in original claims 1, 3, 4 and 9 that no restriction is warranted.

A review of the record shows that a non-final Office action was mailed on April 15, 2010. Applicant filed a response on July 8, 2010 that amended claims 1, 8 and 17 and cancelled claims 13 and 14. A final Office action was mailed on October 7, 2010 in which the examiner identified the newly added claims 21-29 as having a new scope, and withdrew claims 17-19 from consideration under restriction by original presentation. On December 1, 2010 applicants filed an after final amendment traversing the restriction of claims 17-19, and argued the rejections of other claims. An advisory action was mailed on December 22, 2010 in which the examiner maintains that a change in scope in claims 17-19 necessitate the restriction requirement. Applicants timely filed the instant petition on January 3, 2011.

> MPEP 803 sets forth the criteria for restriction as follows: "*under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)). If the search and examination of an entire application can be made without*

serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
There are two criteria for a proper requirement for restriction between patentably distinct inventions:
(A) The inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05 - §806.05(i)); and
(B) There must be a serious burden on the examiner if restriction is required (see MPEP §803.02, §806.04(a) - §806.04(i), §808.01(a), and §808.02).

MPEP 816 specifies that *"The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given. ... The separate inventions should be identified by a grouping of the claims with a short description of the total extent of the invention claimed in each group, specifying the type or relationship of each group as by stating the group is drawn to a process, or to subcombination, or to product, etc., and should indicate the classification or separate status of each group, as for example, by class and subclass. See MPEP § 809."*

A review of the restriction showed that the examiner indicated claims 17-19 as having a different scope from originally filed claims 17-19. It is unclear whether other claims 1-12, 15, and 16 are grouped together as one invention. It is also unclear what relationship claims 17-19 have with claims 1-12, 15 and 16 (subcombination/combination, product/process, etc.), and what classification or separate status claims 17-19 have. There are no reasons presented in the restriction for holding the claimed invention independent or distinct as required by MPEP 816. There is no explanation for serious burden if restriction is not required as set forth in MPEP 803. The fact that applicants have received an action on the merits for the originally presented invention of claims 1-20 is not an adequate reason for the restriction absent a showing of independent or patentably distinct inventions, and serious burden if restriction is not required. Because of all the missing elements, the restriction is considered incomplete.

In response to applicants' argument that the criteria for restricting are "distinct and independent" inventions, applicants' attention is directed to MPEP 803 presented above which clearly states that the criteria is "distinct <u>or</u> independent" inventions.

As the restriction made on July 12, 2010 is incomplete, the application is returned to the examiner to redo the restriction requirement with proper rationales and reasons for holding a restriction. As a remedy, the examiner will issue a new Office action that clearly sets forth the restriction and to consider the amendment filed on December 01, 2010 which has been entered.

Any question regarding this decision should be directed to Quality Assurance Specialist Lanna Mai at (571) 272-6867.

Wyn Coggins, Director
Technology Center 3600
(571) 272-5350

lm: 4/26/11

LM

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FEB 09 2012
OFFICE OF PETITIONS

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 Tower Blvd.
Suite 1200
DURHAM, NC 27707

In re Application of
Robby Darren Benedyk, et al.
Application No. 11/809,980
Filed: June 4, 2007
Attorney Docket No.: 1322/53/2 DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 5, 2012.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before December 20, 2011, as required by the Notice of Allowance and Fee(s) Due mailed September 20, 2011. On January 5, 2012, the present petition was filed. A Notice of Abandonment was subsequently mailed on January 9, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,740 issue fee and $300 publication fee; (2) the petition fee of $1,860; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Doc code : PET.OP.AGE
Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/809,981	Confirmation Number	1420	Filing Date	2007-06-04
Attorney Docket Number (optional)	590-1004-200-US	Art Unit	1627	Examiner	Karol, Jody Lynn
First Named Inventor	John Patrick McCook				
Title of Invention	Color cosmetic compositions for topical anti-aging skin treatment				

Attention: Office of Petitions
An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
John	Patrick	McCook	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

● (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/LCP/	Date (YYYY-MM-DD)	2011-12-16
Name	Louis C Paul	Registration Number	53442

PTO/SB/130 (07-09)
Approved for use through 07/31/2012. OMB 0651- 0031
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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
John Patrick McCook

Application No. 11809981

Filed: June 4,2007

Attorney Docket No.

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 16-DEC-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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GREER, BURNS & CRAIN
300 S. WACKER DR.
25TH FLOOR
CHICAGO IL 60606

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re application of	:	
Brian W. Smith et al	:	
Application No. 11/809,994	:	NOTICE
Filed: June 4, 2007	:	
Attorney Docket No. 4365.77503	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on May 18, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MAILED
MAY 24 2011
OFFICE OF PETITIONS

MICHAEL W. CALDWELL
4226 RIVERMARK PARKWAY
SANTA CLARA CA 95054-4150

In re Application of David Fritz Application No. 11/809,995 Filed: June 4, 2007 Attorney Docket No. SI-0704	: : : : :	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 April 17, 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 Michael W. Caldwell on behalf of himself. Accordingly, Michael W. Caldwell associated with the above-identified application has been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, a there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: David Fritz
505 Cento Court
Pleasanton, CA 94566

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

JAN 10 2011

OFFICE OF PETITIONS

NOTICE

In re Application of	:	
Victor D. Dolecek, et al.	:	
Application No. 11/810,071	:	
Filed: June 4, 2007	:	
Attorney Docket No. 37272-521D01US	:	

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) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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APR 11 2011

OFFICE OF PETITIONS

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

In re	: DECISION ON APPLICATION
Dolecek, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 11/810,071	: AND NOTICE OF INTENT
Filed: June 4, 2007	: TO ISSUE
Patent No. 7,867,159	: CERTIFICATE OF CORRECTION
Issued: January 11, 2011	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)", filed March 1, 2011, which is properly treated under 37 CFR 1.705(d). Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred ninety-seven (197) days to three hundred seventeen (317) days.

The application for patent term adjustment is **GRANTED**.

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred seventeen (317) days**.

On February 25, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the instant application. The Notice stated that the patent term adjustment (PTA) to date was two hundred nine (209) days. On May 25, 2010, Applicants filed a "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", which was a candor letter indicating that the 209 days of patent term accorded was thought to be longer than

appropriate. On January 11, 2011, the application issued into Patent No. 7,867,159, with a patent term adjustment of one hundred ninety-seven (197) days.

A review of the file reveals that Applicants were assessed delay of one hundred twenty (120) days for filing the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" on May 25, 2010. Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Likewise, the submission of a candor letter will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, zero (0) days should have been assessed for this filing.

In view thereof, the correct determination of patent term adjustment is three hundred seventeen (317) days (350 (242+108) days of PTO delay, reduced by 33 (31+2) days of applicant delay).

Receipt of the $200 fee is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **three hundred seventeen (317) days**.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,867,159 B2

DATED : **January 11, 2011**

INVENTOR(S) : Dolecek 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 197 days.

Delete the phrase "by 197 days" and insert – by 317 days--

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John M. Harrison
2139 E. Bert Kouns
Shreveport LA 71105

MAILED

APR 25 2011

OFFICE OF PETITIONS

In re Application of	:	
Larry S. Sasaki	:	
Application No. 11/810,081	:	ON PETITION
Filed: June 4, 2007	:	
Attorney Docket No. 9303	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 20, 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 August 21, 2010. The Notice of Abandonment was mailed December 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 1711 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

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The TPL Group (VNS Portfolio LLC)
C/O Alliacense Limited LLC
20883 Stevens Creek Boulevard
Suite 100
Cupertino CA 95014

JUN 08 2011

In re Application of		
MOORE, CHARLES H.	:	
Application No.: 11/810,183	:	DECISION ON
Filing or 371(c) Date: June 5, 2007	:	PETITION
Attorney Docket Number: 0057-011C1	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on May 25, 2011.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance mailed December 28, 2011 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 22, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on March 28, 2011. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. As authorized, the issue fee of $1810.00 was charged to Credit Card.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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EDWIN H. CRABTREE
SUITE 575
3773 CHERRY CREEK N. DRIVE
DENVER CO 80209

MAILED

JAN 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Chris G. Sanford	:	DECISION ON PETITION
Application Number: 11/810285	:	
Filing Date: 06/05/2007	:	
Attorney Docket Number:	:	
Broadhead - 4Th CIP	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on October 27, 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(a)," or, as described below, under 37 CFR 1.137(b).

The application became abandoned on January 31, 2010, for failure to timely file a response to the Notice Requiring Excess Claims Fees ("Notice") mailed on December 30, 2009, which set a one (1) month shortened period for reply. No extensions of the time for reply were obtained. Notice of Abandonment was mailed on September 1, 2010.

On October 27, 2010, the subject petition was filed. Petitioner asserts that the delay was unavoidable in that counsel never received the Notice mailed on December 30, 2009, and was unaware that additional fees were due.

A grantable petition under 37 CFR 1.137(a) 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 utility or plant 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(l);

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition lacks item (3).

With regards to item (3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

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[1] 35 U.S.C. § 133.

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

With regard to the allegation of non-receipt of the Notice mailed on December 30, 2009, a review of the record indicates no irregularity in the mailing of the Notice mailed on December 30, 2009, and, in the absence of any irregularity in the mailing, there is a strong presumption that the Notice mailed on December 30, 2009, was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice mailed on December 30, 2009, was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

---

made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

(emphasis added)

Accordingly, petitioner must state that the Notice was not received at the correspondence address of record, and that a search of the petitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Notice was not received. A copy of the record(s) used by the petitioner where the non-received Notice would have been entered had it been received is required.

A copy of the petitioner's record(s) required to show non-receipt of the Notice must include petitioner's master docket. That is, if a one (1)-month period for reply was set in the nonreceived Notice, a copy of the master docket report showing all replies docketed for a date one month from the mail date of the nonreceived Notice must be submitted as documentary proof of nonreceipt of the Notice. If no such master docket exists, the petitioner 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.

If petitioner is unable to provide the showing above, petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b), accompanied by the required fee as set forth in § 1.17(m).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWIN H. CRABTREE
SUITE 575
3773 CHERRY CREEK N. DRIVE.
DENVER CO 80209

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MAR 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Chris G. Sanford	:	DECISION ON PETITION
Application Number: 11/810285	:	
Filing Date: 06/05/2007	:	
Attorney Docket Number:	:	
Broadhead - 4Th CIP	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed on January 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on January 31, 2010, for failure to timely file a response to the Notice Requiring Excess Claims Fees ("Notice") mailed on December 30, 2009, which set a one (1) month shortened period for reply. No extensions of the time for reply were obtained. Notice of Abandonment was mailed on September 1, 2010. The petition filed on October 27, 2010, was dismissed on January 5, 2011.

Receipt of the excess claims fees paid on October 27, 2010, is acknowledged.

The application is restored to pending status.

The application is being referred to Technology Center Art Unit 3711 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110517

DATE : January 25, 2011

TO SPE OF : ART UNIT 3643

SUBJECT : Request for Certificate of Correction on Patent No.: 7841132

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:

/PETER M POON/
Supervisory Patent Examiner.Art Unit 3643

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Office of Gerow Brill
20 Oakmont Circle
New Feedom, PA 17349

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Ryan T. Watkins	:	
Application No. 11/810,335	:	DECISION ON PETITION
Filed: June 5, 2007	:	
Attorney Docket No. WATKINS-1-U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed July 15, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawing and an amendment (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/29/11

TO SPE OF : ART UNIT 3652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11810430 Patent No.: 7581770

CofC mailroom date: 04/19/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE AU3652

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of	:	
Mario Atilio Los	:	
Application No. 11/810,453	:	ON PETITION
Filed: June 5, 2007	:	
Attorney Docket No.: 07-345	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 27, 2010, which set a shortened statutory period for reply of three (3) months. In view of the 1-month extension of time under the provisions of 37 CFR 1.136(a), the application became abandoned on August 27, 2010. This decision precedes the mailing of a Notice of Abandonment. On November 11, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $405; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $865 extension fees included with this petition will be credited to counsel's deposit account.

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed on August 27, 2010 in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

MAILED
SEP 02 2011
OFFICE OF PETITIONS

In re Application of	:	
Logvinov, Oleg	:	
Application No. 11/810,460	:	ON PETITION
Filed: June 5, 2007	:	
Attorney Docket No. ST-EPL-077	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/928,218.

Telephone inquiries concerning this decision should 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

Daniel R. Brown
57 Stagecoach Road
Fort Worth TX 76244

In re Application of		
LAM, ALAN M.L.	:	AUG 10 2010
Application No.: 11/810,535	:	DECISION ON
Filing or 371(c) Date: June 6, 2007	:	PETITION
Attorney Docket Number: RS051	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action, received in the United States Patent and Trademark Office (USPTO) on May 10, 2010.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper reply to the Office letter -- Notice of Allowance — mailed on January 11, 2010, which set a three-month time period to reply (not extendable). Accordingly, the Notice of Abandonment was mailed on April 27, 2010.

In absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Office action was properly mailed to 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 the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Action Are Not Received" MPEP 711.03(c) II

Petitioner has met the above-stated conditions. Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES 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
MAY 20 2011
OFFICE OF PETITIONS

In re Application of :
Olsen et al. :
Application No. 11/810,623 : ON APPLICATION FOR
Filed: June 6, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-6124 :

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 April 26, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred fifty-seven (757) days[1], not three hundred twenty-one (321) 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.

[1] This calculation is based on a projected issuance date of August 16, 2011.

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[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). 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).

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.

---

[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

Decision Date : December 8, 2011

In re Application of :

Constantinos Balas

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11810699

Filed : 05-Jun-2007

Attorney Docket No : LB-5601-7

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 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 3768 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	11810699
Filing Date	05-Jun-2007
First Named Inventor	Constantinos Balas
Art Unit	3768
Examiner Name	NICHOLAS EVOY
Attorney Docket Number	LB-5601-7
Title	METHODS FOR CHARACTERIZING CANCER AND PRE-CANCER TISSUES

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	/Leonidas Boutsikaris/
Name	Leonidas Boutsikaris
Registration Number	61377

UNITED STATES PATENT AND TRADEMARK OFFICE

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THORPE NORTH & WESTERN LLP
PO BOX 1219
SANDY UT 84091-1219

MAILED
DEC 17 2010
OFFICE OF PETITIONS

In re
Patent No. 7,835,074
Issued: November 16, 2010
Application No. 11/810,702
Filed: June 5, 2007

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 1, 2010.

The fee deficiency submission under 37 CFR 1.28 of $182 for the excess claims fees is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUNSTEIN KANN MURPHY & TIMBERS LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Igelman et al.	:	DECISION ON PETITION
Application No. 11/810,807	:	TO WITHDRAW
Filed: June 6, 2007	:	FROM RECORD
Attorney Docket No. 3440/103	:	

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 17, 2011.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 02101 was revoked by the assignee of record on April 27, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROBERT RYAN MORISHITA
MORISHITA LAW FIRM, LLC
8960 WEST TROPICANA AVENUE
SUITE 300
LAS VEGAS NV 89147

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Fredrik Andreas DAHL	:	
Application No. 11/810,827	:	DECISION ON PETITION
Filed: June 7, 2007	:	
Attorney Docket No. G2GAME07-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before October 25, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 23, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 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 $755; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DILWORTH PAXSON LLP
1500 MARKET STREET
SUITE 3500 E
PHILADELPHIA PA 19102

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Allickson	:	
Application No. 11/810,851	:	DECISION
Filed/Deposited: 5 June, 2007	:	
Attorney Docket No. 07-1075	:	

This is a decision on the petition filed on 25 February, 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:

Applicant failed to reply timely and properly to the non-final Office action mailed on 18 August, 2010, with reply due absent extension of time on or before 18 November, 2010.

The application went abandoned by operation of law after midnight 18 November, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 25 February, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of an amendment. For reasons not apparent in the record, Petitioner inappropriately filed a request and fee for extension of time and those fees are refunded via credit card. Should Petitioner later find that the fees were not refunded, Petitioner should file a request with the Office of Finance with a copy of this decision.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated pursuant to 37 C.F.R. §11.18 (formerly §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1632 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

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DILWORTH PAXSON LLP
1500 MARKET STREET
SUITE 3500 E
PHILADELPHIA PA 19102

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Allickson	:	
Application No. 11/810,851	:	DECISION
Filed/Deposited: 5 June, 2007	:	
Attorney Docket No. 07-1075	:	

This is a decision on the petition filed on 12 July, 2011, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 18 August, 2010, with reply due absent extension of time on or before 18 November, 2010.

The application went abandoned by operation of law after midnight 18 November, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 25 February, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of an amendment. (For

reasons not apparent in the record, Petitioner inappropriately filed a request and fee for extension of time and those fees were refunded via credit card. Petitioner was reminded that should Petitioner later find that the fees were not refunded, Petitioner should file a request with the Office of Finance with a copy of this decision.) The petition was granted on 31 May, 2011.

For reasons that are unclear—but may simply have been that the 31 May, 2011, decision was not yet visible in the Image File Wrapper (IFW) at the time the action was taken—the Office mailed a Notice of Abandonment on 3 June, 2011.

On 12 July, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 requesting withdrawal of the holding of abandonment and indicating therein that Petitioner had filed the petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a statement of unintentional delay <u>and a reply in the form of an amendment</u> and with a copy of the reply submitted on 25 February, 2011. Moreover, the record—as outlined above and is visible in IFW—supported Petitioner's averment, made and supported consistent with the guidance in the Commentary at to MPEP §711.03(c).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

calendar; reminder system; or the individual docket record for the application in question.[1]

***

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

***

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office

[1] *See*: MPEP §711.03(c) (I)(A).

> of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]
>
> ***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

---

[2] *See*: MPEP §711.03(c) (I)(B).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[6]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

The Office record reflects and so Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted**, and the 3 June, 2011, Notice of Abandonment hereby is **vacated**.

The instant application is released to the Technology Center/AU 1632 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[6] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/810,858	06/07/2007	Thomas Schulz	INF 2007 P 50702 US	4862

48154 7590 04/04/2011
SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

EXAMINER
SMITH, BRADLEY

ART UNIT	PAPER NUMBER
2894	

NOTIFICATION DATE	DELIVERY MODE
04/04/2011	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):

docketing@slater-matsil.com

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SLATER & MATSIL, L.L.P
17950 Preston Rd., Suite 1000
Dallas, TX 75252-5793

In re Application of:
Thomas SCHULZ
Application No.: 11/810,858
Filed: June 7, 2007
For: SEMICONDUCTOR DEVICES AND METHODS OF MANUFACTURE THEREOF

DECISION ON PETITION
TO WITHDRAW FINALITY OF OFFICE ACTION
UNDER C.F.R. § 1.181

This is a decision on the Petition For Withdrawal of the Finality of the Rejection under 37 C.F.R. § 1.181, filed November 1, 2010, requesting that the finality of the Office action mailed on October 6, 2010 be withdrawn.

The petition is **GRANTED**.

On August 26, 2010 Applicant filed a Request for Continued Examination (RCE) and a submission that includes amending independent claims 1, 7, 12, 16 and adding new claims 29-36. On October 6, 2010, the claims were finally rejected under 35 U.S.C. § 112, first paragraph, 35 U.S.C. § 102, and 35 U.S.C. § 103. The rejection under 35 U.S.C. § 112, first paragraph, and the rejections using different combinations of prior art constitute new grounds of rejection. Therefore, pursuant to M.P.E.P. §706.07(b) the Office action of October 6, 2010 is prematurely made final.

For the above-stated reason, the petition is hereby granted and the finality of the Office action dated October 6, 2010 is hereby withdrawn.

With the finality of the Office action being withdrawn, the amendment filed November 1, 2010 becomes an amendment under 37 C.F.R. § 1.111 that will be entered and considered by the examiner.

The application is being forwarded to the examiner for further action on the merits. No further action from the Applicant is required at this time.

Inquiries regarding this decision should be directed to Kimberly D. Nguyen, Supervisory Patent Examiner, at (571) 272-2402.

John W. Cabeca, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ANTONIO R. DURANDO
6902 N. TABLE MOUNTAIN ROAD
TUCSON AZ 85718-1331

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Yung-Chieh Hsieh, et al.	:	
Application No. 11/810,873	:	DECISION ON PETITION
Filed: June 7, 2007	:	
Attorney Docket No. : 7.013	:	

This is a decision on the petition under 37 CFR 1.314, filed April 28, 2011, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web[1]

Any questions concerning this matter may be directed to at (571) 272- .

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/810,946	06/06/2007	Albert Montague	060367/00002	4036

31013 7590 02/16/2011
KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER
BROWN, PHYLLIS M

ART UNIT	PAPER NUMBER
3753	

NOTIFICATION DATE	DELIVERY MODE
02/16/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

klpatent@kramerlevin.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Attention: AARON HALEVA
1700 Avenue of the Americas
New York NY 10036

In re Application of: Montague, Albert)))))
Application No. 11/810,946)
Filed: June 6, 2007
For: BACK FLOW PREVENTER

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 October 15, 2007, requesting acceptance of color drawings. The petition requests that at least some of the drawings, which are in color, be accepted in lieu of black and white drawings. The petition asserts that the nature of the invention described in the application makes color drawings the practical medium by which to adequately illustrate the invention, inasmuch as significant details would be completely lost if only standard black and white drawings were submitted.

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 patent or application file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed without an amendment to add the required specific language as stated above in the brief description of drawings. Furthermore, while applicant asserts that some significant details would be lost by the use of black and white drawings, no examples are given, and no other evidence is offered to show the need for colored drawings. The invention appears to be adequately capable of being illustrated with standard drawings.

Applicant's submission does not meet all the criteria set out above. Accordingly, the petition is **DENIED**.

/Stephen M. Hepperle/
Supervisory Patent Examiner
Art Unit 3753

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/08/11

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 11810968 Patent No.: 7485773

CofC mailroom date: 01/26/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

All changes are approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/07/11

TO SPE OF : ART UNIT: 2112 Attn: BADERMAN SCOTT (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/810991 Patent No.: 8065588

CofC mailroom date: 11/22/2011

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:

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Randolph Square – 9D10-A
Palm Location 7580

Note: **Please check the Specifications**
Should the requested changes be made or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The column mentioned in reference to claim 6 is not correct.

SCOTT BADERMAN
~~SUPERVISORY PATENT EXAMINER~~ SPE

2112
Art Unit

PTOL-306 (REV. 7/03)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/810,995	06/07/2007	Masataka Osada	07357/LH	6832

EXAMINER
BROWER, CHRISTIAN S

ART UNIT	PAPER NUMBER
4144	

MAIL DATE	DELIVERY MODE
02/22/2011	PAPER

7590 02/22/2011
HOLTZ, HOLTZ, GOODMAN & CHICK PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
David T. Williamson :
Application No.: 11/811,034 : ON PETITION
Filed: June 8, 2007 :
Attorney Docket No: CL3492 :

This is in response to the renewed petition under 37 CFR 1.137(b) filed June 29, 2010, and in supplement on July 23, 2010.

The renewed petition under 37 CFR 1.137(b) is **granted**.

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Non-Provisional Application Papers, mailed July 16, 2007. The notice set a shortened period for reply of two-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The Notice required a properly executed declaration under 37 CFR 1.63 to be filed along with payment of a surcharge for the late filing of the same. A response was not received within the allowable period and the application became abandoned on September 17, 2007. A Notice of Abandonment was mailed on March 26, 2008.

The executed declaration under 37 CFR 1.63 filed July 23, 2010, is noted.

This application is being forwarded to the Office of Patent Application Processing for further review.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BARLEY MILL PLAZA 25/1125
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED
FEB 14 2012
OFFICE OF PETITIONS

In re Application of
Williamson
Application No.: 11/811,034
Filed: June 8, 2007
Attorney Docket No: **CL3492USNA**

: ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed May 11, 2011. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on August 12, 2011. A Notice of Abandonment was mailed on December 2, 2011.

The Request for Continued Examination filed January 13, 2012, are noted.

The application file is being forwarded to Technology Center 1700, GAU 1762 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/811,047	06/07/2007	Robert Akka	95194936.092011	5425

78769 7590 11/02/2011
REALD Inc. - Patent Department
by Baker & McKenzie LLP
2001 Ross Avenue, Suite 2300
Dallas, TX 75201

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

NOTIFICATION DATE	DELIVERY MODE
11/02/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nmothew@reald.com
reald@bakermckenzie.com

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

NOV 01 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

REALD INC. - PATENT DEPARTMENT
BY BAKER & MCKENZIE LLP
2001 ROSS AVENUE, SUITE 2300
DALLAS, TX 75201

In re Application of:
Robert Akka et al.
Application No. 11/811,047
Filed: June 07, 2007
For: **STEREOPLEXING FOR VIDEO AND FILM APPLICATIONS**

DECISION ON PETITION

This is a decision on the petition filed September 18, 2007 requesting that the correction of inventorship.

37 C.F.R. § 1.48, Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116 states:

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:

(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) of this chapter).

In support of the petition, the Applicant provided

1. Statements from each person being added as an inventor, Matt Cowan and Josh Greer, that the error in inventorship occurred without deceptive intention on his part in compliance with 37 C.F.R. 1.48(a)(2);
2. A declaration executed by the four inventors;
3. Written consent of Assignee REAL D pursuant to 37 C.F.R. 3.73(b);
4. Assignments from Matt Cowan and Josh Greer to REAL D for the invention and

accompanying PTO- 1595.
5. The processing fee set forth in 37 C.F.R. 1.17(i)

For the above-stated reasons, the petition is **Granted**.

Any inquiry concerning this decision should be directed to Mehrdad Dastouri at (571) 272-7418.

/Mehrdad Dastouri/

Mehrdad Dastouri
SPE AU 2486
Technology Center 2400

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.
11/811,047	06/07/2007	Robert Akka	95194936.092011	5425

78769 7590 11/04/2011
REALD Inc. - Patent Department
by Baker & McKenzie LLP
2001 Ross Avenue, Suite 2300
Dallas, TX 75201

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

NOTIFICATION DATE	DELIVERY MODE
11/04/2011	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):

nmothew@reald.com
reald@bakermckenzie.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

REALD INC. - PATENT DEPARTMENT
BY BAKER & MCKENZIE LLP
2001 ROSS AVENUE, SUITE 2300
DALLAS, TX 75201

In re Application of:
Robert Akka et al.
Application No. 11/811,047
Filed: June 07, 2007
For: **STEREOPLEXING FOR VIDEO AND FILM APPLICATIONS**

DECISION ON PETITION

This is a decision on the petition filed September 18, 2007 requesting that the correction of inventorship.

37 C.F.R. § 1.48, Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116 states:

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:

(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) of this chapter).

In support of the petition, the Applicant provided

1. Statements from each person being added as an inventor, Matt Cowan and Josh Greer, that the error in inventorship occurred without deceptive intention on his part in compliance with 37 C.F.R. 1.48(a)(2);
2. A declaration executed by the four inventors;
3. Written consent of Assignee REAL D pursuant to 37 C.F.R. 3.73(b);
4. Assignments from Matt Cowan and Josh Greer to REAL D for the invention and

accompanying PTO- 1595.
5. The processing fee set forth in 37 C.F.R. 1.17(i)

For the above-stated reasons, the petition is **Granted**.

Any inquiry concerning this decision should be directed to Mehrdad Dastouri at (571) 272-7418.

/Mehrdad Dastouri/

Mehrdad Dastouri
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROWN, WINICK, GRAVES, GROSS, BASKERVILLE
AND SCHOENEBAUM, P.L.C
666 GRAND AVE
SUITE 2000
DES MOINES, IA 50309

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Application of	:	
George Davey, et al.	:	
Application No. 11/811,059	:	DECISION ON PETITION
Filed: June 8, 2007	:	
Attorney Docket No. 13025/0006	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 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, March 8, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1175 extension of time fee submitted with the petition on September 10, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to undersigned at (571)272-1642. All other inquiries concerning the examination or status of this application should be directed to the 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 September 10, 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

JAMES M. WU
JW LAW GROUP
84 W. SANTA CLARA STREET
SUITE 820
SAN JOSE CA 95113

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Kordus et al	:	
Application No. 11/811,077	:	DECISION ON PETITION
Filed: June 7, 2007	:	
Attorney Docket No. 30-017US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2009, 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 December 26, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2822 for appropriate action by the Examiner in the normal course of business on the reply received December 14, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATENT LAW PROFESSIONALS
P.O. BOX 612407
SAN JOSE, CA 95161

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Louis Charles Kordus II, et al
Application No. 11/811,077
Filed: June 7, 2007
Attorney Docket No. 1098.P0015US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 23, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with customer no. 63409 has been revoked by the assignee of the patent application on December 14, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

JAMES W. WU
JW LAW GROUP
84 W. SANTA CLARA STREET
SUITE 820
SAN JOSE CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/811,077	06/07/2007	Louis Charles Kordus II	30-017US

CONFIRMATION NO. 5094

POA ACCEPTANCE LETTER

OC000000045584147

79662
James M. Wu
JW Law Group
84 W. Santa Clara Street
Suite 820
San Jose, CA 95113

Date Mailed: 01/20/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/14/2009.

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.

/kocreasy/

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
11/811,077	06/07/2007	Louis Charles Kordus II	30-017US

CONFIRMATION NO. 5094

POWER OF ATTORNEY NOTICE

63409
PATENT LAW PROFESSIONALS
P.O. BOX 612407
SAN JOSE, CA 95161

OC000000045583957

Date Mailed: 01/20/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/14/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kocreasy/

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

DOUGLAS E. MACKENZIE
P.O. BOX 1295
MOUNTAIN VIEW CA 94042

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Kenneth J. Highland	:	
Application No. 11/811,097	:	DECISION ON PETITION
Filed: June 8, 2007	:	
Attorney Docket No. KH005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 30, 2010, which set a shortened statutory period for reply of two (2) months. Accordingly, the above-identified application became abandoned on November 2, 2010. A Notice of Abandonment was mailed on November 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Replacement Drawings, (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, applicant states "Please note my legal name change." If applicant desires a name change a petition under 37 C.F.R. § 1.182 and requisite $400.00 fee are required.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being directed to the Office of Data Management for processing into a patent.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/18/11

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No.: 11811173 Patent No.: 7785637

CofC mailroom date: 03/09/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Terry A McKelvey

TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER
Art Unit 1655

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/811,214	06/08/2007	Ralph T. Brunner	04860.P5188	6028

45217 7590 11/03/2011
APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER
KRASNIC, BERNARD

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
11/03/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES 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 2, 2011

APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of	:	
Ralph T. Brunner et al.	:	**DECISION ON PETITION**
Application No. 11811214	:	
Filed: 06/08/2007	:	
Attorney Docket No. **04860.P5188**	:	

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) June 8, 2007.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
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

January 12, 2012

APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of	:	
Ralph T. Brunner et al.	:	**DECISION ON PETITION**
Application No. 11811214	:	
Filed: 06/08/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **04860.P5188**	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 30, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

SEP 16 2010

OFFICE OF PETITIONS

ALLEN R. KIPNES
WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETION JUNCTION, NJ 08550

In re Application of	:	
Jesse John Kiefer et al	:	
Application No. 11/811,220	:	ON PETITION
Filed: June 8, 2007	:	
Attorney Docket No. A71-07LAV	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 30, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination 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, this application became abandonment on March 31, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1100 extension of time submitted with the petition on July 23, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1781 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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED
JAN 09 2012
OFFICE OF PETITIONS

In re Application of :
Jesse John Kiefer et al :
Application No. 11/811,220 :
Filed: June 8, 2007 :
Attorney Docket No. 1421-354 CON :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1781 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/811,234	06/07/2007	Lenny Lipton	95194936.092021	6246

78769 7590 11/02/2011
REALD Inc. - Patent Department
by Baker & McKenzie LLP
2001 Ross Avenue, Suite 2300
Dallas, TX 75201

EXAMINER
HALLENBECK-HUBER, JEREMIAH CHARLES

ART UNIT	PAPER NUMBER
2486	

NOTIFICATION DATE	DELIVERY MODE
11/02/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nmothew@reald.com
reald@bakermckenzie.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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REALD INC. - PATENT DEPARTMENT
BY BAKER & MCKENZIE LLP
2001 ROSS AVENUE, SUITE 2300
DALLAS, TX 75201

In re Application of:
Lenny Lipton et al.
Application No. 11/811,234
Filed: June 07, 2007
For: **STEREOPLEXING FOR VIDEO AND FILM APPLICATIONS**

DECISION ON PETITION

This is a decision on the petition filed September 18, 2007 requesting that the correction of inventorship.

37 C.F.R. § 1.48, Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116 states:

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:

(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) of this chapter).

In support of the petition, the Applicant provided

1. Statements from each person being added as an inventor, Matt Cowan and Josh Greer, that the error in inventorship occurred without deceptive intention on his part in compliance with 37 C.F.R. 1.48(a)(2);
2. A declaration executed by the four inventors;
3. Written consent of Assignee REAL D pursuant to 37 C.F.R. 3.73(b);
4. Assignments from Matt Cowan and Josh Greer to REAL D for the invention and

accompanying PTO- 1595.
5. The processing fee set forth in 37 C.F.R. 1.17(i)

For the above-stated reasons, the petition is **Granted**.

Any inquiry concerning this decision should be directed to Mehrdad Dastouri at (571) 272-7418.

/Mehrdad Dastouri/

Mehrdad Dastouri
SPE AU 2486
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
DEC 05 2011
OFFICE OF PETITIONS

KENT S. BURNINGHAM, P.C.
466 South 500 East
Salt Lake City UT 84102

In re Application of

Yanaki, et al.

Application No. 11/811,241

Filed: June 8, 2007

Attorney Docket No. **2679.001US**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 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, February 14, 2011, 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 May 15, 2011. A Notice of Abandonment was mailed September 16, 2011.

The amendment filed November 15, 2011, is noted.

The application is being forwarded to Technology Center 3700, GAU 3767 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PAUL K GODWIN
PAUL K GODWIN PC
7218 PINE VISTA DR
BRIGHTON MI 48116

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re
Elgar, et al.
Application No. 11/811,242
Filed: June 8, 2007
Attorney Docket No. APT 2.013

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 16, 2011.

The fee deficiency submission under 37 CFR 1.28 of $1380 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

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1125
4417 LANCASTER PIKE
WILMINGTON, DE 19805

MAILED
DEC 15 2011
OFFICE OF PETITIONS

In re Application of :
Antoine SCHELLING, et al. :
Application No. 11/811,249 :
Filed: June 7, 2007 :
Attorney Docket No. TK4720USNA :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 1, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 2, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1860; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of April 1, 2011 is accepted as having been unintentionally delayed.

Telephone inquiries concerning 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 1776 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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KOPPEL, PATRICK, HEYBL & DAWSON
2815 Townsgate Road
SUITE 215
Westlake Village CA 91361-5827

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DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Geringer, et al. :
Application No. 11/811,252 : ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. **744-27-036CO**

This is a decision on the petition under 37 CFR 1.137(a), filed November 23, 2010, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the final Office action mailed April 19, 2010, which set a shortened statutory period for reply of three-months (3) month from its mailing date. No response was received within the allowable period, and the application became abandoned on July 20, 2010. A Notice of Abandonment was mailed on November 10, 2010.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the final Office action was not received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner is required to provide a master docket for the firm that shows all replies docketed for a date three months from the mail date of the final Office action. As indicated above, if a master docket does not exist, the renewed petition should so state and reference the docket record for the subject application.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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2815 Townsgate Road
SUITE 215
Westlake Village CA 91361-5827

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of :
Geringer, et al. :
Application No. 11/811,252 : ON PETITION
Filed: June 7, 2007 :
Attorney Docket No. **744-27-036CO**

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the final Office action mailed April 19, 2010, which set a shortened statutory period for reply of three-months (3) month from its mailing date. No response was received within the allowable period, and the application became abandoned on July 20, 2010. A Notice of Abandonment was mailed on November 10, 2010.

Examiner Estremsky has determined that the amendment filed November 23, 2010, places the application in condition for allowance.

The application is being forwarded to Technology Center 3600, GAU 3677 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DENTSPLY INTERNATIONAL INC
570 WEST COLLEGE AVENUE
YORK PA 17404

In re Application of
Buchner, et al.
Application No. 11/811,258
Filed: June 8, 2007
Atty. Dkt. No.: DEG-200101-CON

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.137(b), filed December 20, 2011.

The petition is **GRANTED**.

This application became abandoned July 14, 2011 for failure to timely submit a proper reply in response to the non-final Office action mailed April 13, 2011. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 22, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,270.00 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 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 2617 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

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MAR 07 2011

OFFICE OF PETITIONS

In re Application of :
Hirokazu Nishimura et al :
Application No. 11/811,263 : ON PETITION
Filed: June 8, 2007 :
Attorney Docket No. MEDICAL IMAGE PROCESSING METHOD

This is a decision on the petition, filed March 4, 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 February 4, 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 2624 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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FRIEDRICH KUEFFNER
SUITE 910
317 MADISON AVENUE
NEW YORK, NY 10017

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AUG 12 2010

OFFICE OF PETITIONS

In re Application of
Andreas Pfannenberg
Application No.: 11/811,269
Filed: June 8, 2007
Attorney Docket No.: RW-199

ON PETITION

This is a decision on the petition, filed December 29, 2009, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned for failure to reply to the non-final Office action mailed May 29, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 8, 2009. In response, on December 29, 2009, the present petition was filed. Petitioner argues that a reply was timely filed.

A review of the record discloses that petitioner is correct. In view of the appropriate request for extension of time and fee included with the response filed December 4, 2009 using a certificate of mailing dated November 30, 2009, the response period of August 29, 2009 was properly extended to November 30, 2009, as November 29, 2009 was Sunday.

In view of the above, the holding of abandonment for failure to timely file a response to the Office communication of May 29, 2009 is withdrawn and the application is restored to pending status.

The Notice of Abandonment mailed December 8, 2009 is hereby vacated.

This application is being referred to Technology Center AU 3749 for appropriate action in the normal course of business on the reply received December 4, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Date Mailed : 07/18/11

Patent No. : 7674605 B2
Patent Issued : 03/09/10
Docket No. : **606592000200**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

The word conversions, purported to be in column 73, line 5, cannot be found in the printed patent. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1814 or (703) 756-1574

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

LMN

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November 1, 2011

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

Re Application of
SVAKHINE, NIKOLAI, ET Al
Application: **11/811325**
Filed: **06/08/2007**
Attorney Docket No: **12264-228**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **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) June 8,2007.

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
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Alexandria, VA 22313-1450
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September 19, 2011

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Jean-Pierre Ciudad et al.	:	**DECISION ON PETITION**
Application No. 11811330	:	
Filed: 6/8/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 18962-0127001 / P5471US1	:	***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) June 8, 2007.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/27/2011

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/811365 Patent No.: 7848905 B2

CofC mailroom date: 10/19/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes are approved.

/Andrew Schechter/ — **SPE**

2857 — **Art Unit**

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U.S. ARMY SOLDIER SYSTEMS CENTER
LEGAL OFFICE, A306
15 KANSAS STREET
NATICK MA 01760-5035

MAILED
MAY 04 2011
OFFICE OF PETITIONS

In re Application of :
James E. Sadeck :
Application No. 11/811,527 : DECISION ON PETITION
Filed: June 11, 2007 :
Attorney Docket No. **NA-1300** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 4, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 3644 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re application of
Johannes Martin et al
Application No. 11/811,559
Filed: June 11, 2007
Attorney Docket No. MARTIN ET AL-4

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on September 21, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

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) 272-3208.

/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
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/811,634	06/08/2007	Neal R. Pederson	14076-49201	6918

7590 04/07/2011
RODEY, DICKASON, SLOAN, AKIN & ROBB, PA
P.O. BOX 1888
ALBUQUERQUE, NM 87103

EXAMINER
OLSEN, LIN B

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
04/07/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

April 7, 2011
RODEY, DICKASON, SLOAN, AKIN & ROBB, PA
P.O. BOX 1888
ALBUQUERQUE NM 87103

Re Application of	
PEDERSON, NEAL R., Et. Al	: **DECISION ON PETITION**
Application No: **11/811634**	: **ACCEPTANCE OF COLOR**
Filed: **06/08/2007**	: **DRAWINGS**
Attorney Docket No: **14076-49201**	:

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) June 8, 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
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MAILED
AUG 08 2011
OFFICE OF PETITIONS

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

In re Application of	:	
TOTH	:	
Application No. 11/811,636	:	ON PETITION
Filed: June 9, 2007	:	
Attorney Docket No. ATOMIC-22	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed July 16, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 17, 2009. *See* MPEP 1215.04. A Notice of Abandonment was mailed February 18, 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) (2).

With respect to item (2): A review of the Office record shows that no fee accompanied the petition filed June 17, 2011, as set forth in 37 CFR 1.17(m). In this regard, no consideration on the merits can be given until the required fee is remitted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John Alumit
16830 Ventura Blvd. Suite 360
Encino CA 91364

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of Dan Rosen :
Application No. 11/811,669 : Decision on Petition
Filing Date: June 11, 2007 :
Attorney Docket No. 22192-004 :

This is a decision on the petition under 37 CFR 1.137(b) filed February 11, 2012, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed May 8, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, August 11, 2009. A Notice of Abandonment was mailed January 20, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of a signed amendment, (2) the required petition fee of $930, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

The application has been abandoned for an extended period of time. The Patent and Trademark Office has relied on petitioner's duty of candor and good faith when accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. *See Changes to Patent Practice and Procedure*, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Technology Center Art Unit 3732 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/811,744	06/12/2007	Ying Zheng	ARI 9037	7213

23579 7590 04/13/2011
Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

EXAMINER
SINGH, SATYENDRA K

ART UNIT	PAPER NUMBER
1657	

MAIL DATE	DELIVERY MODE
04/13/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

April 12, 2011

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309

In re Application of	:
ZHENG, YING, et al.	: **DECISION ON PETITION**
Application No. **11/811744**	:
Filed: **06/12/2007**	:
Attorney Docket No: **ARI 9037**	

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) June 12, 2007.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/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

CLINICAL DATA, INC.
Attn: Amy Medel
ONE GATEWAY CENTER SUITE 702
NEWTON MA 02458

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Wang, et al. :
Application No. 11/811,823 : ON APPLICATION FOR
Filed: June 12, 2007 : PATENT TERM ADJUSTMENT
Atty Docket No. ATL-005-US

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b) filed December 9, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred and twenty-nine (829) days, not five hundred and sixty (560) 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.

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].

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is **five hundred and forty-six (546) days, including fourteen days of applicant delay**. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

On September 9, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the initial patent term adjustment to date is 0 days. Applicants timely filed the instant application for patent term adjustment[2].

Applicants assert that:

> ...Applicants respectfully note that an Amendment under 37 CFR 1.312 was filed on October 15, 2010. A response to this amendment was mailed from the USPTO on October 28, 2010...Accordingly it is Applicants understanding that the period of time from October 15, 2010 to October 28, 2010, or 14 days constitutes Applicant delay.

Excerpt taken from Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. § 1.705(b), filed December 9, 2010, p. 3.

It is noted that 37 CFR 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

Applicants' contention is well-taken. Accordingly, the period of adjustment of the term of the patent should be reduced by 14 days, beginning on the date the amendment under 37 CFR 1.312 was filed, October 15, 2010 and ending on the date the response to

---

[2] The issue fee was paid on June 8, 2009. Accordingly, applicants timely filed the instant request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(b) with the payment of the fee set forth in 37 CFR 1.18(e).

the amendment under 37 CFR 1.312 was mailed, October 28, 2010. Accordingly, a period of reduction of 14 days will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is five hundred and forty-six (546) days (560 days of Office delay - 14 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).

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.

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 address cited on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address cited on the petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary 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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

cc:
A. Jacqueline Wizeman, Ph.D.
McCarter and English, LLP
265 Franklin Street, 14th Floor
Boston, MA 02110

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 11811823 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 11811823

Application Filing Date	06/12/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	560
A Delays	560	PTO Manual Adjustment	-14
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	546

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
68	12/29/2010		P028	Adjustment of PTA Calculation by PTO		14	0
67	12/29/2010		P028	Adjustment of PTA Calculation by PTO	56		0
66	12/29/2010		P028	Adjustment of PTA Calculation by PTO		28	0
65	12/29/2010		P028	Adjustment of PTA Calculation by PTO		14	0
64	12/29/2010		P028	Adjustment of PTA Calculation by PTO		14	0
54	09/09/2010		MN/=.	Mail Notice of Allowance			0
53	09/08/2010		IREV	Issue Revision Completed			0
52	09/08/2010		DVER	Document Verification			0
51	09/08/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
50	09/08/2010		N/=.	Notice of Allowance Data Verification Completed			0
49	09/08/2010		DOCK	Case Docketed to Examiner in GAU			0
48	09/08/2010		CNTA	Notice of Allowability			0
42	09/07/2010		FWDX	Date Forwarded to Examiner			0
40	09/07/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
43	09/02/2010		C602	Oath or Declaration Filed (Including Supplemental)			0
41	09/02/2010		A.NE	Amendment after Final Rejection			0
39	09/02/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
38	06/02/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
37	06/01/2010		CTFR	Final Rejection			0
33	05/03/2010		FWDX	Date Forwarded to Examiner			0
36	04/21/2010		IDSC	Information Disclosure Statement considered			0
35	04/21/2010	04/21/2010	EIDS.	Electronic Information Disclosure Statement			32
34	04/21/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
32	04/21/2010		A...	Response after Non-Final Action			0
31	04/21/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
30	02/23/2010	08/12/2008	MCTNF	Mail Non-Final Rejection	560		-1
29	02/22/2010		CTNF	Non-Final Rejection			0
27	01/18/2010		IDSC	Information Disclosure Statement considered			0
23	01/18/2010		EIDS.	Electronic Information Disclosure Statement			0
22	01/18/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
26	10/23/2009		IDSC	Information Disclosure Statement considered			0
21	10/23/2009		EIDS.	Electronic Information Disclosure Statement			0
20	10/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
19	01/05/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
18	12/30/2008		C.AD	Correspondence Address Change			0
17	01/03/2008		PG-ISSUE	PG-Pub Issue Notification			0
16	12/17/2007		DOCK	Case Docketed to Examiner in GAU			0
25	12/05/2007		IDSC	Information Disclosure Statement considered			0
15	12/05/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
14	10/13/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	10/11/2007		OIPE	Application Dispatched from OIPE			0
11	09/26/2007		PGPC	Sent to Classification Contractor			0
10	09/26/2007		COMP	Application Is Now Complete			0
9	09/12/2007		ADDFLFEE	Additional Application Filing Fees			0
8	09/12/2007		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
13	08/10/2007		A.PE	Preliminary Amendment			0
7	07/30/2007		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	07/17/2007		L128	Cleared by L&R (LARS)			0
4	06/26/2007		L198	Referred to Level 2 (LARS) by OIPE CSR			0
3	06/26/2007		CLSS	CASE CLASSIFIED BY OIPE			0
2	06/24/2007		SCAN	IFW Scan & PACR Auto Security Review			0
1	06/13/2007		IEXX	Initial Exam Team nn			0

Export to: Excel

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

KAMMER BROWNING PLLC
7700 BROADWAY, SUITE 202
SAN ANTONIO TX 78209

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of :
Steven Bankler :
Application No. 11/811,897 : DECISION ON PETITION
Filed: June 12, 2007 :
Attorney Docket No. 1141.02 :

This is a decision on the renewed petition filed under 37 CFR 1.137(b) in the above-identified application filed on February 26, 2011.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a proper response to a non-final Office Action, which was mailed on March 3, 2010. The non-final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application became abandoned on June 4, 2010. A Notice of Abandonment was mailed 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 an amendment (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3693 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 19, 2011

TO SPE OF : ART UNIT 1613

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/811905 Patent No.: 7960439

CofC mailroom date: 7-11-11

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

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: _____

_____

_____

_____

_____

SPE — 1613 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 30, 2012

In re Application of :

Phillip Snoke

Application No : 11811957

Filed : 13-Jun-2007

Attorney Docket No : 42602-336366

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 January 30, 2012

The request is **APPROVED.**

The request was signed by Charles W. Calkins (registration no. 31814) on behalf of all attorneys/agents associated with Customer Number 23342 . All attorneys/agents associated with Cusotmer Number 23342 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	Phillip Jack Snoke
Name2	
Address 1	101 North Chestnut Street, Suite 305
Address 2	
City	Winston-Salem
State	NC
Postal Code	27104
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	11811957
Filing Date	13-Jun-2007
First Named Inventor	Phillip Snoke
Art Unit	3779
Examiner Name	ALIREZA NIA
Attorney Docket Number	42602-336366
Title	Medical device introduction systems and methods

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 23342

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Phillip Jack Snoke
Address	101 North Chestnut Street, Suite 305
City	Winston-Salem
State	NC
Postal Code	27104
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Charles W. Calkins/
Name	Charles W. Calkins
Registration Number	31814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENISE M. STEVENS
35000 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Denise M. STEVENS	:	
Application No. 11/811,960	:	DECISION ON PETITION
Filed: June 12, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 27, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and five (5) month extension of time, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

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 March 2, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SEP 13 2010

OFFICE OF PETITIONS

JULIE K. STAPLE, ESQ.
GIFFORD, KRASS, SPRINKLE
ANDERSON & CITKOWSKI, P.C.
PO BOX 7021
TROY MI 48007-7021

In re Application of.	:	
Ostermeier et al.	:	
Application No. 11/811,968	:	NOTICE
Filed: June 12, 2007	:	
Attorney Docket No. J0227.70003US03	:	

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 application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

MAILED
JUN 14 2011
OFFICE OF PETITIONS

In re Patent Number: 7,959,751 :
Issue Date: 06/14/2011 :
Application Number: 11/811,978 : NOTICE
Filing or 371(c) Date: 06/13/2007 :
Attorney Docket Number: MAR01 P-305 :

This is a notice regarding your request for acceptance of a fee deficiency submission, which is treated under 37 CFR 1.28, filed on April 27, 2011.

The Office no longer investigates or rejects original or reissue patents 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) 272-3231.

D Wood
Douglas Wood
Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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AUG 17 2010

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Tomoaki Hirayama et al	:	
Application No. 11/812,001	:	DECISION ON PETITION
Filed: June 14, 2007	:	
Attorney Docket No. 1403-0364PUS1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 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 RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed October 16, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received May 21, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SHIMOKAJI & ASSOCIATES PC
8911 RESEARCH DRIVE
IRVINE CA 92618

MAILED
FEB 07 2012
OFFICE OF PETITIONS

In re Application of :
Kuo Ching Chiang :
Application No. 11/812,031 : ON PETITION
Filed: June 14, 2007 :
Attorney Docket No. 323-0112 :
(P1952US-30)

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed January 12, 2012.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed June 15, 2011, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on December 28, 2011, together with a three month extension of time. However, the Amendment was not timely, as the last day a reply could have been timely filed was December 15, 2011. As such, the application became abandoned on December 16, 2011. The Office mailed a Notice of Abandonment on January 11, 2012.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1).

Applicants have not submitted a proper reply to the June 15, 2011 final Office action. A proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application. Here, the Examiner has determined (and indicated to the undersigned) that the Amendment filed on December 28, 2011 does not place the application in condition for allowance.

Accordingly, on renewed petition, applicant must submit either a Notice of Appeal, an RCE, or a continuing application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MAR 07 2012
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8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of	:	
Kuo Ching Chiang	:	
Application No. 11/812,031	:	ON PETITION
Filed: June 14, 2007	:	
Attorney Docket No. 323-0112	:	
(P1952US-30)		

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed February 29, 2012.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed June 15, 2011, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on December 28, 2011, together with a three month extension of time. However, the Amendment was not timely, as the last day a reply could have been timely filed was December 15, 2011. As such, the application became abandoned on December 16, 2011. The Office mailed a Notice of Abandonment on January 11, 2012. Applicant

filed a petition to revive under 37 CFR 1.137(b) on January 12, 2012. However, the petition was dismissed in a decision mailed on February 7, 2012. The petition was dismissed because the reply (an after final Amendment) did not place the application in condition for allowance.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1).

With the instant renewed petition, petitioner has once again submitted an Amendment. However, as the Examiner has previously indicated (to the undersigned) that the earlier Amendment did not place the application in condition for allowance, petitioner must submit either a **Notice of Appeal, an RCE, or a continuing application.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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IRVINE CA 92618

MAILED
MAR 27 2012
OFFICE OF PETITIONS

In re Application of Kuo Ching Chiang Application No. 11/812,031 Filed: June 14, 2007 Attorney Docket No. 323-0112 (P1952US-30)	: : : : :	CORRECTED DECISION ON PETITION

This is a corrected decision in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed February 29, 2012. A previous decision was mailed on March 7, 2012.

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 June 15, 2011, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on December 28, 2011, together with a three month extension of time. However, the Amendment was not timely, as the last day a reply could have been timely filed was December 15, 2011. As such, the application became abandoned on December 16, 2011. The Office mailed a Notice of Abandonment on January 11, 2012. Applicant filed a petition to revive under 37 CFR 1.137(b) on January 12, 2012. However, the petition was dismissed in a decision mailed on February 7, 2012. The petition was dismissed because the reply (an after final Amendment) did not place the application in condition for allowance.

With the instant renewed petition, petitioner has submitted the required reply in the form of an RCE. The other requirements for a grantable petition were previously satisfied with the petition filed on January 12, 2012.

The RCE fee of $465 has been charged to Deposit Account No. 50-0851, as authorized.

The application is being forwarded to Group Art Unit 2182 for consideration of the RCE, filed February 29, 2012.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : June 29, 2011

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/812046 Patent No.: 7933239

CofC mailroom date: 6-24-11

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Kent Chang
SPE

2617
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Application of	:	
Koichi Zama et al	:	
Application No. 11/812,121	:	DECISION GRANTING PETITION
Filed: June 15, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 071725	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 17, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 23, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1727 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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GARY L. SHAFFER
901 BANKS PLACE
ALEXANDRIA VA 22312

MAILED
MAR 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Penelope Catherine Costello, et al.	:	
Application No. 11/812,128	:	DECISION GRANTING PETITION
Filed: June 15, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 85593-133055	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 8, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Alexandria, VA 22313-1450
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GARY L. SHAFFER
901 BANKS PLACE
ALEXANDRIA, VA 22312

MAILED

FEB 01 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Penelope Catherine Costello et al :
Application No. 11/812,152 :
Filed: June 15, 2007 :
Attorney Docket No. 85593-388063

This is a decision on the petition, filed January 31, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 30, 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 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Ram Prakash HANUMANTHAPPA	:	
Application No. 11/812,319	:	DECISION ON PETITION
Filed: June 18, 2007	:	
Attorney Docket No. 149950	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 04, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 04, 2011. Accordingly, the date of abandonment of this application is May 05, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450

Ms. Allison M. Tulino
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20037

MAILED
FEB 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Shinji BABA	:	DECISION GRANTING PETITION
Application No. 11/812,431	:	UNDER 37 CFR 1.181
Filed: 19 June 2007	:	
Atty. Docket No.: Q102062	:	

This is a decision on the petition, filed 4 January 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition is **DISMISSED AS MOOT**.

A decision, *sua sponte*, withdrawing the holding of abandonment was mailed 12 January 2011. Accordingly, the petition to withdraw the holding of abandonment is DIMISSED as moot.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-6051).

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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October 3, 2011

Patent No. :7,897,751 B2
Ser. No. : 11/812459
Inventor(s) : Yusuke Tsukada, et al.
Issued : March 1, 2011
Title : PHARMACEUTICAL PREPARATION
Docket No. :8612/91504

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 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.

Magdalene Talley
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571)272-0423
Fax-(571)270-9942

Fitch, Even, Tabin & flannery
One Lafayett Centre, Ste. 750 south
1120 20th Street, NW
Washington, DC 20036

MD/mt

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NOV 14 2011
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FITCH EVEN TABIN & FLANNERY
PO BOX 18415
WASHINGTON DC 20036

In re Patent No. 7,897,751	:	
Issue Date: March 1, 2011	:	
Application No. 11/812,459	:	DECISION ON PETITION
Filed: June 19, 2007	:	
Attorney Docket No. 8612/91504	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION", filed October 21, 2011.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee is acknowledged. The $100 fee for the Certificate of Correction has been charged to Deposit Account No. 06-1135.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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.
11/812,464	06/19/2007	Hiroyuki Kamio	008312-0361755	2761

7590 10/08/2010
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2484	

MAIL DATE	DELIVERY MODE
10/08/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 10/12/2010 MFARMER
[illegible] 11812464
[illegible]

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED
JUN 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,872,081 :
Issue Date: January 18, 2011 :
Application No. 11/812,718 : DECISION ON PETITION
Filed: June 21, 2007 :
Attorney Docket No. 011796-0018-999 :

This is a decision on the Request For Certificate of Correction Under 37 U.S.C. §254 And Pursuant To 37 C.F.R. §1.323 (Applicant's Mistake), filed February 25, 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 Applicant's mistake. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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. 7,872,081.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Paul L. Sharer
Intellectual Property Group
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

MAILED

MAR 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Kyung Wan Chu	:	
Application No. 11/812,846	:	DECISION GRANTING PETITION
Filed: June 22, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CHUK3005/JJC/KDW	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 7, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Kevin D. Williams appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Williams desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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.

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

This application is being referred to Technology Center AU 3663 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/812,910	06/22/2007	Ki Lyoung Lee	2007-OPH-3630	5897

90228 7590 09/01/2010
IP & T Law Firm PLC
7700 Little River Turnpike
Suite 207
Annandale, VA 22003

EXAMINER
TAYLOR, EARL N

ART UNIT	PAPER NUMBER
2818	

MAIL DATE	DELIVERY MODE
09/01/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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IP & T Law Firm PLC
7700 Little River Turnpike
Suite 207
Annandale, VA 22003

IN RE APPLICATION OF
Ki Lyoung Lee
Application No.: 11/812,910
Filed: June 22, 2007
For: METHOD FOR FORMING DUAL DAMASCENE PATTERN

DECISION ON PETITION TO ACCEPT COLOR PHOTOGRAPHS AND A COLOR DRAWING

This is a decision on the petition under 37 C.F.R. § 1.84, filed September 21, 2007, requesting acceptance of color photographs and a color drawing.

The petition is GRANTED.

The petition requests that the color photographs identified as figures 5a and 5b be accepted in lieu of black and white photographs and the color drawing identified as figure 6a be accepted in lieu of black and white drawing.

A grantable petition under 37 C.F.R. § 1.84(a)(2) and 37 C.F.R. § 1.84(b)(2) must be accompanied by (1) a fee set forth in 37 C.F.R. § 1.17(h), (2) three (3) sets of color photographs and three (3) sets of color drawings, and the specification must contain the following language as the first paragraph in the 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 filed with the required fees, three (3) sets of the color photographs and three (3) sets of color drawing figures identified above and the required language in the specification as quoted above. Accordingly, the petition complies with all the requirements under 37 C.F.R. § 1.84(a)(2) and 37 C.F.R. § 1.84(b)(2).

The application is being forwarded to the Office of Publication for issuance of a patent.

Any inquiries regarding this decision should be directed to Steven Loke, Supervisory Patent Examiner, at (571) 272-1657.

Steven Loke

Steven Loke, Supervisory Patent Examiner
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/812,942	06/22/2007	Chia-Chen Chen	0941-1983PUS1	6210

2292 7590 06/29/2011
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
DESIRE, GREGORY M

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
06/29/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.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

June 27, 2011

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Chia-Chen Chen et al.	:	**DECISION ON PETITION**
Application No. 11812942	:	
Filed: 06/22/2007	:	
Attorney Docket No. **0941-1983PUS1**	:	

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) June 22, 2007.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings), and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura L. Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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July 26, 2011

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Chia-Chen Chen et al.	:	**DECISION ON PETITION**
Application No. 11812942	:	
Filed: 06/22/2007	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **0941-1983PUS1**	:	***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) July 12, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 14 2011

OFFICE OF PETITIONS

G. LINK CO., LTD.
3550 BELL ROAD
MINOOKA IL 60447

In re Patent No. 7,609,211
Issue Date: October 27, 2009
Application No. 11/812,973
Filed: June 22, 2007
Attorney Docket No. P1145

DECISION ON PETITION

This is a decision on the Supplemental Request For Certificate Of Correction, filed June 9, 2010, which is being treated as a Petition Under 37 CFR §3.81(b) to correct assignee's name -- Wistron Neweb Corporation -- to the Title Page of the Patent via a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests that the present Petition was submitted to correct assignee's name -- Wistron Neweb Coporation -- on the previously submitted PTOL-85B.

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.

A petition under 37 CFR §3.81(b) requires a petition processing fee of $130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i). This petition lacks the processing fee. For this reason, the petition is dismissed.

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).

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

APR 12 2011

OFFICE OF PETITIONS

G. LINK CO., LTD.
2885 Sanford Ave, SW #13265
Grandville, MI 49418

In re Patent No. 7,609,211	:	
Issue Date: October 27, 2009	:	
Application No. 11/812,973	:	DECISION ON PETITION
Filed: June 22, 2007	:	
Attorney Docket No. P1145	:	

This is a decision on the renewed Request Petition Under 37 CFR 3.81(b), filed March 23, 2011, to identify the correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The renewed petition under 37 CFR §3.81(b) is **GRANTED**.

The petition decision mailed March 14, 2011, dismissed the 37 CFR §3.81(b) petition filed June 9, 2010, because the required petition processing fee was not submitted with the petition. The renewed petition includes the processing petition fee.

Receipt is acknowledged of the Change Of Correspondence Address filed with the renewed petition. The required corrections have been made to Office records.

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. 7,609,211.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Muncy, Geissler, Olds & Lowe, PLLC
4000 Legato Road
Suite 310
FAIRFAX VA 22033

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of
Huang, et al.
Application No. 11/812,975
Filed: June 22, 2007
Atty. Dkt. No.: 5545/0320PUS1

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2010.

The petition is **GRANTED**.

This application became abandoned September 24, 2007 for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 23, 2007. The Notice set a two month statutory period of time for reply. Notice of Abandonment was mailed May 30, 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). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JACKSON INTELLECTUAL
PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN VA 22971

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Lin, et al.	:	
Application No. 11/812,984	:	DECISION
Filed/Deposited: 22 June, 2007	:	
Attorney Docket No. 7000.204	:	

This is a decision on the petition filed on 13 August, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees due) mailed on 31 July, 2007, with reply due absent extension of time on or before 30 September.

The application went abandoned by operation of law after midnight 20 September, 2007.

The Office mailed a Notice of Abandonment on 14 April, 2008.

On 29 January, 2010, Petitioner Demian K. Jackson (Reg. No. 57,551) filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with a reply in the form of (fees due), and made a statement of unintentional delay. However, Petitioner failed to provide a discussion (supported by applicable documentation) of the extended period of delay following the date of abandonment as to the nature of the twenty-nine- (29-) month delay since the date of abandonment and twenty-one- (21-) month delay since the Notice thereof. In fact there is no showing that Petitioner is in a position to make the statement of unintentional delay and/or has made an appropriate independent inquiry with findings that support such a statement. The petition was dismissed on 7 July, 2010.

On 13 August, 2010, Petitioner re-advanced his petition with statements as to the facts and due diligence provided by the representative of the assignee explaining that former Counsel—now no longer in practice before the Office—provided to assignee incorrect and incomplete information as to the status of the instant matter and as to fees provided to former Counsel but apparently not submitted to the Office by him. It is noted that the other requirements (petition, fee, reply) were submitted on the original petition.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3])

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Office of Patent Application Processing (OPAP) 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 OPAP in response to this decision. It is noted that all inquiries with regard to status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

[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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

2 8 SEP 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

In re Application of:	:	
BOECKER, Dirk	:	DECISION
U.S. Application No.: 11/813,014	:	(37 CFR 1.78(a)(3))
PCT No.: PCT/US2005/047480	:	
International Filing Date: 30 December 2005	:	
Priority Date: 30 December 2004	:	
Attorney Docket No.: 38187-2898	:	
For: METHOD AND APPARATUS FOR ANALYTE MEASUREMENT TEST TIME	:	

This decision is issued in response to the "Petition To Claim Benefit Under 35 USC 120, 121, Or 365(c) Of A Prior Copending Nonprovisional Application Or International Application Designating The United States Of America (37 C.F.R. 178(a)(3))" filed 19 July 2010.

For the reasons discussed below, the petition is **DISMISSED** without prejudice.

A petition for acceptance of a delayed claim for priority under 37 CFR 1.78(a)(3) is appropriate where, as here, the later-filed application was filed after 29 November 2000 and the applicant seeks to add a claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed nonprovisional application after the expiration of the time period set forth in 37 CFR 1.78(a)(2)(ii). A grantable petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference to the prior-filed application required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17; and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

For the reasons discussed below, the present petition fails to satisfy item (1) above.

The present petition seeks to add a benefit claim identifying the present application as a continuation-in-part of U.S. Application No. 10/127,395 (now U.S. Patent No. 7,025,774). The petition was accompanied by the following proposed amendment to the first line of the description: "This application was filed as PCT/US2005/047480 on 12/30/2005, which claims the benefit of U.S. Ser. No. 60/640,879, filed 12/30/2004. This application is also a continuation

in part of U.S. 10/127,395, filed 4/19/2002 (now US Patent No. 7,025,774) all of which applications are fully incorporated herein by reference."

The amendment filed by applicants is defective because it indicates that the contents of the prior-filed applications referred to therein, including U.S nonprovisional application 10/127,395 (and U.S. provisional application 60/640,879), are each "fully incorporated herein by reference." As set forth in MPEP section 201.06(c)(IV) (emphasis added):

> 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 Indus. v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

Here, the application as filed did not include an incorporation by reference statement with respect to U.S nonprovisional application 10/127,395 (or U.S. provisional application 60/640,879); thus, the inclusion in the present proposed amendment of an incorporation by reference statement directed to such applications is improper.

Based on the above, the reference to prior-filed U.S nonprovisional application 10/127,395 contained in the proposed amendment filed with the present petition is not acceptable as filed. Item (1) of a grantable petition under 37 CFR 1.78(a)(3) is therefore not satisfied on the present record.

Before the petition under 37 CFR 1.78(a)(3) may be granted, applicant must submit a renewed petition accompanied by an acceptable substitute amendment (or ADS) containing a proper reference to U.S. application 10/127,395. 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.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 27 2010

PCT LEGAL ADMINISTRATION

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

In re Application of: BOECKER, Dirk U.S. Application No.: 11/813,014 PCT No.: PCT/US2005/047480 International Filing Date: 30 December 2005 Priority Date: 30 December 2004 Attorney Docket No.: 38187-2898 For: METHOD AND APPARATUS FOR ANALYTE MEASUREMENT TEST TIME	DECISION ON RENEWED PETITION (37 CFR 1.78(a)(3))

This decision is issued in response to the "Renewed Petition To Claim Benefit Under 35 USC 120, 121, Or 365(c) Of A Prior Copending Nonprovisional Application Or International Application Designating The United States Of America (37 C.F.R. 178(a)(3))" filed 08 October 2010. Applicants have previously submitted the required surcharge payment.

For the reasons discussed below, the renewed petition is **GRANTED**.

The decision mailed 28 September 2010 dismissed without prejudice applicants' original petition under 37 CFR 1.78(a)(3) because applicants had not submitted an acceptable reference to the prior-filed non-provisional application. The present renewed petition was accompanied by a supplemental amendment to the first sentence of the description that contains an acceptable reference identifying the present application as a continuation in part of U.S. application 10/127,395. The revised amendment removes the improper incorporation by reference statement contained in the previous amendment.

The present submission satisfies the final outstanding requirement of a grantable petition under 37 CFR 1.78(a)(3) to add an unintentionally delayed benefit claim directed to the prior-filed non-provisional. Applicants' petition is therefore appropriately 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 <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed 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 directed to U.S. application 10/127,395 accompanies this decision on petition.

Any questions concerning this decision may be directed to the undersigned. All other inquiries concerning either the examination procedures or status of the application should be directed to Group Art Unit 3736.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

ATTACHMENT: Corrected Filing Receipt

Doc Code: PET.RELIEF
Document Description: Certification and Request for Japan Events Relief

PTO/SB/425 (03-11)

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/813,032	Patent Number (if applicable):
First Named Inventor: Mitsumasa KOYANAGI	Title of Invention: METHOD AND APPARATUS FOR FABRICATING...

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:

   a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.

   b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.

   c. The statutory or non-statutory time period set for response has not yet expired.

   d. Withdrawal and reissuance of the Office communication is requested.

   e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.

   f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:

   a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.

   b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.

   d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

CERTIFICATION AND REQUEST FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):

   a. The maintenance fee payment was required to have been paid after March 10, 2011.

   b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).

   c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.

   e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).

   f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. *See* 35 U.S.C 41(c).

   g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:

   a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.

   b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.

   c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.

   d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature	Date March 29, 2011
Name (Print/Typed) Joerg-Uwe Szipl	Practitioner Registration Number 31,799

***Note**: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.*

☑ *Total of 1 forms are submitted.

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P.O. Box 1450
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GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of :
Mitsumasa KOYANAGI :
Application No.: 11/813,032 : DECISION ON PETITION
Filed: May 2, 2008 :
Attorney Docket No.: ARICHI0007 :

This is a decision on the request filed March 29, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **DISMISSED**.

As set forth in the announcement, the Office action or notice will be re-mailed and the period for response will be restarted if:

(1) The patent application or reexamination proceeding is pending in the USPTO as of March 11, 2011, and a reply to an Office action (final, non-final, or other), a notice of allowance, or other Office notice is outstanding;

(2) One or more inventors, an assignee or a correspondence address is in the area of Japan affected by the earthquake and resultant tsunami of March 11, 2011;

(3) The period for response has not yet expired; and

(4) Applicant requests relief. The request must be made by using the form PTO/SB/425 or be accompanied by a copy of the announcement.

The request must be made prior to expiration of the statutory or non-statutory time period set for response and 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). The use of the form PTO/SB/425 or the inclusion of a copy of the announcement will be treated as a representation that the need for the

reissuance of the Office communication was due to the effects of the earthquake and resulting tsunami of March 11, 2011.

The instant request is dismissed since it lacks item(s) (1) in that there is no outstanding Office notice or action pending against this application. Therefore, as any relief sought by the requestor is not clear from the request, the request is dismissed.

It is noted that a Notice of Appeal has been filed on January 31, 2011.The time period for filing an appeal brief is based upon the date a notice of appeal is filed, and not on the date an Office action or other communication is mailed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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.
11/813,036	11/14/2007	Ole Molgaard Jeppesen	04933-P0050A	5792

24126 7590 04/04/2011
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

EXAMINER
EDGAR, RICHARD A

ART UNIT	PAPER NUMBER
3745	

MAIL DATE	DELIVERY MODE
04/04/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of	:	
JEPPESEN, OLE MOLGAARD et al	:	DECISION ON REQUEST TO
Application No. 11/813,036	:	PARTICIPATE IN PATENT
Filed: Sep. 30, 2010	:	PROSECUTION HIGHWAY
Attorney Docket No. 04933-P0050A	:	PILOT PROGRAM AND PETITION
For: WIND TURBINE COMPRISING A	:	TO MAKE SPECIAL UNDER
MULTIPLIED REDUNDANCY	:	37 CFR 1.102(a)
CONTROL SYSTEM AND METHOD		
OF CONTROLLING A WIND TURBINE		

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program under 37 CFR 1.102(a), filed April 1, 2011, to make the above-identified application special.

The request and petition are granted.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the IPAU;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the IPAU application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IPAU application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the IPAU application(s) containing the allowable/patentable claim(s); and
(6) Applicant must submit an IDS listing the documents cited by the IPAU examiner in the IPAU office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Supervisory Patent Examiner, Edward Look, Art Unit 3745 at 571-272-4820. Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

This application will be being forwarded to the examiner for action on the merits commensurate with this decision.

Petition is **granted**.

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

MAILED
APR 09 2012
PCT LEGAL ADMINISTRATION

In re Application of	:	
Anderson, et al.	:	
Application No. 11/813,090	:	DECISION ON PETITION
Int'l Filing Date: 30 December 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P13-PCT-US-7258-0061	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 09 January 2012, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a 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) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted. First, it attempts to add 10/994,589, which was not filed 08 November 2004 and does not have a common inventor with the present application. The petition indicates application 10/984,589. Second, it fails to state the relationship between the applications as required by 37 CFR 1.78(a)(2)(i). 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. As set forth in MPEP 201.11, Section III A, the relationship between the applications is whether the instant application is a continuation, divisional, or continuation-in-part of the prior nonprovisional application. An example of a proper benefit claim is "this application is a continuation of Application No. ---, filed ---." A benefit claim that merely states that "this application claims the benefit of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), since the relationship between the applications is not stated. Furthermore, a benefit claim that merely states that "this application is a continuing application of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing (i.e., continuation, divisional, or continuation-in-part) application, is not stated.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and an amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
PCT Legal Administration

11 AUG 2010

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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K&L Gates LLP
P.O. BOX 1135
CHICAGO IL 60690

In re Application of	DECISION ON
JUNTAN et al	
PCT No.: PCT/CN2006/002421	
Application No.: 11/813,201	PETITION UNDER
Int. Filing Date: 18 September 2006	
Priority Date: 18 September 2006	
Attorney's Docket No.: 118626-7	37 CFR 1.47(a)
For: AN INTERLEAVING SCHEME FOR AN LDPC	
CODED 16PSK SYSTEM	AND 37 CFR 1.137(b)

This decision is in response to petitioner's "RESPONSE UNDER 37 C.FR. 1.47(a) AND RESPONSE... AND PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" submitted on 14 May 2010, requesting the acceptance of the application without the signature of the inventor Mr. Peng GAO, and to revive aforementioned application. Petitioner's deposit account 04-1061 has been charged the requisite $200 petition.

BACKGROUND

On 18 September 2006, applicants filed international application PCT/CN2006/002421.

On 18 March 2009, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter.

On 14 May 2010, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905).

On 26 April 2010, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909).

On 14 May 2010, petitioner filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a) accompanied, inter alia, an executed Declaration without the signature of Peng GAO.

DISCUSSION

37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:
REFUSAL TO JOIN:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1) – (3) of 37 CFR 1.47(a) but not item (4).

Regarding item (1), the petition fee of $200.00 has been charged to Deposit Account No.: 04-1061.

Regarding item (2), the averments of Mei Levin is sufficient to support a finding that the nonsigning inventor, Mr. Gao refuses to sign because it is clear that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for his signature, and that the inventor refused to return the correspondence. A copy of the application papers were mailed on February 20, 2010 to Mr. GAO and on March 3, 2010 an email of the application papers were sent t0 Mr. Yang (manager of Mr. GAO and petitioner has not received any signed documents from him.

Regarding item (3), petitioner has provided a statement of the last known address of the missing inventor.

Mr. Peng GAO
Academy of Broadcasting Science, SARFT
No. 2 Fuxingmenwai Ave.
Beijing, P.R. China

Regarding item (4), petitioner has provided an executed declaration signed by Juntan Zhang and Fengwen Sun on their behalf and on the behalf of Mr. GAO but there is a discrepancy between the transmittal letter filed on 6/29/07 with international application number PCT/2006/002421 and the petition which indicates that this is a national stage application from international application PCT/CN2006/002421.

As a result, the petition does not satisfies all the requirements under 37 CFR 1.47(a).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

37 CFR 1.137(b):

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Applicants have satisfied requirements (2), (3), and (4) under 37 CFR 1.137(b) but not requirement (1).

Applicants have not provided: (1) the proper reply that is a properly executed declaration as applicant has to correct the international application of aforementioned application.

Applicants have provided: (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is not deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

COMMUNICATION:

Applicants have entered an incomplete PCT serial number, PCT/2006/002421, at the time of filing the national application as shown on the transmittal letter (PTO-1390). Applicant will need to file a petition under 37 CFR 1.182 so as to provide the correct international application number, explain the error and provide the petition fee of $400.00 under 37 CFR 1.182.

Once the petition is granted the correct number will be reflected in the filing receipt.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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.

Rafael Bacares
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Suite 1200
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MAILED
JAN 06 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	
ZHANG et al	:	
Application No.: 11/813,201	:	PETITION UNDER
Int. Filing Date: 18 September 2006	:	
Priority Date: N/A	:	37 CFR 1.182,
Attorney's Docket No.: 118626-7	:	37 CFR 1.47(a)
For: AN INTERLEAVING SCHEME FOR AN LDPC	:	
CODED 16PSK SYSTEM	:	AND 37 CFR 1.137(b)

This is in response to the "PETITION UNDER 37 CFR 1.182 TO CORRECT INTERNATIONAL APPLICATION NUMBER" filed on 11 November 2010. The petition fee of $400.00 has now been charged to Deposit Account No.: 04-1061

BACKGROUND

In a decision from this Office on 11 August 2010, the petition under 37 CFR 1.47(a) and 37 CFR 1.137(b) was dismissed. The decision stated that item (2) under 37 CFR 1.47(a) and item (2) under 37 CFR 1.137(b) had not been satisfied because there was a discrepancy in the numbers provided between the transmittal letter and international application number.

On 11 November 2010, petitioner submitted a "Petition Under 37 CFR 1.182 to correct the PCT application number to **PCT/CN2006/002421**.

DISCUSSION

Petitioner entered the incorrect PCT serial number, PCT/2006/002421 on the transmittal letter and the ADS at the time of filing the application. Petitioner states that the form was unintentionally filed with an incorrect and incomplete international application number.

Petitioner did provide the correct international application number PCT/CN2006/002421 at the time of electronically filing the application. The serial number generated by the Electronic Acknowledgement Receipt is generated by the serial number inputted by petitioner and it has the correct number PCT/CN2006/002421. Also, the search report filed also contained the correct PCT serial number. Accordingly, there is sufficient evidence that the correct international application PCT number is PCT/CN2006/002421.

Therefore, the petition to accept the correct PCT number of PCT/CN2006/002421 for the instant application is granted, and will be reflected in a corrected filing receipt.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 27 September 2010 has satisfied item (4) under 37 CFR 1.47(a) and item (1) under 37 CFR 1.137(b). Thus satisfying all the requirements under 37 CFR 1.47(a) and 37 CFR 1.137(b).

Regarding item (4), petitioner has now provided a properly executed declaration identifying the correct PCT application.

Consequently, the petition does satisfy all the items under 37 CFR 1.47(a).

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

37 CFR 1.137(b):

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has now satisfied item (1) under 37 CFR 1.137(b).

Applicants have provided: (1) the proper reply that is a properly executed declaration. identifying the correct PCT application number.

Accordingly, the petition is deemed to satisfy items (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.47(a) is **GRANTED** without prejudice.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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Mr. Peng GAO
Academy of Broadcasting Science, SARFT
No. 2 Fuxingmenwai Ave.
Beijing, P.R. China

MAILED

JAN 06 2011

PCT LEGAL ADMINISTRATION

In re Application of
ZHANG et al
PCT No.: PCT/CN2006/002421
Application No.: 11/813,201
Int. Filing Date: 18 September 2006
Priority Date: 18 September 2006
Attorney's Docket No.: 118626-7
For: AN INTERLEAVING SCHEME FOR AN LDPC CODED 16PSK SYSTEM

Dear: GAO

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Rafael Bacares
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K&L Gates LLP
P.O. BOX 1135
CHICAGO IL 60690

16 AUG 2010

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Alexandria, VA 22313-1450
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Kevin R. Spivak
DICKINSON WRIGHT PLLC
1875 Eye Street, NW
Suite 1200
Washington, DC 20006

In re Application of	:	
Sun et al.	:	
Application No.: 11/813,206	:	DECISION
PCT No.: PCT/CN2006/002420	:	
Int. Filing Date: 18 September 2006	:	ON
Priority Date: N/A	:	
Attorney Docket No.: 118626-003; 39062-00005	:	PETITION
For: A Family Of LDPC Codes For Video Broadcasting Applications	:	

This is in response to the renewed petition under 37 CFR 1.47(a) and petition under 37 CFR 1.137(b) filed on 17 June 2010.

DISCUSSION

Petition Under 37 CFR 1.137(b)

Petitioner has stated that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has paid the petition fee. No terminal disclaimer is required. However, for the reasons described below, the "required reply" is not regarded as having been submitted at this time.

Petition Under 37 CFR 1.47(a)

In a Decision mailed on 07 June 2010, the petition under 37 CFR 1.47(a) filed on 17 May 2010 was dismissed, without prejudice, because

> Regarding **requirement (2)**, petitioner has provided a "Declaration of Ms. Mei Levin," who states that correspondence (including copies of the application, declaration and assignment) was sent to the non-signing inventors on 20 February 2010. However, it is not clear that Ms. Levin has first-hand knowledge of the facts recounted (that is, whether she herself sent the letters). In addition, it is not clear whether the letters were sent to each inventor at his last-known residential address (rather, it appears that both letters may have been sent to a business address pertaining to Mr. Yang). Thus, it is not adequately clear whether applicants presented copies of the declaration and the application papers to both of the non-signing inventors. Though petitioner has presented a copy of an email from Ming Yang which suggests refusal on his part, it is not clear that any such refusal took place after he was presented with copies of the application and declaration; moreover, this evidence does not show refusal on the part of Mr. Shi.

Regarding **requirement (3)**, the petition provides a last-known address for the non-signing inventors, but characterizes this address as a "place of employment." It would be appropriate for petitioner to furnish the last-known residential addresses of these inventors.

In response, petitioner has now stated the last known residential addresses of the non-signing inventors. Counsel also indicates that only their business address is currently valid.

With respect to requirement (2), petitioner refers to "the attached Declaration of Ms. Levin" to establish the inventors' alleged refusal. However, the "Declaration of Ms. Mei Levin" accompanying the renewed petition appears to be a copy of the "Declaration of Ms. Mei Levin,"dated 30 April 2010, which accompanied the petition filed on 17 May 2010 and was already considered in the previous Decision. It is not clear whether petitioner intended to include a new statement by Ms. Levin. In addition, petitioner indicates that Ms. Levin has first-hand knowledge of the facts recounted. However, it appears that a Wang Hai Yan may have been the individual who actually sent the correspondence in question, but no statement by her has been provided.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b) and 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
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RESTON VA 20191

MAILED

AUG 30 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
Sun et al.	:	
Application No.: 11/813,206	:	DECISION
PCT No.: PCT/CN2006/002420	:	
Int. Filing Date: 18 September 2006	:	ON
Priority Date: N/A	:	
Attorney Docket No.: 118626-003; 39062-00005	:	PETITION
For: A Family Of LDPC Codes For Video Broadcasting Applications	:	

This is in response to the renewed petition under 37 CFR 1.47(a) and renewed petition under 37 CFR 1.137(b) filed on 28 January 2011.

DISCUSSION

Petition Under 37 CFR 1.137(b)

In a Decision mailed on 16 August 2010, the petition under 37 CFR 1.137(b) filed on 17 June 2010 was dismissed, without prejudice, because "for the reasons described below, the "required reply" is not regarded as having been submitted at this time." Specifically, the required reply was not regarded as having been provided, since the petition under 37 CFR 1.47(a) was not grantable at that time. Since the instant renewed petition under 37 CFR 1.47(a) is being granted, it now would be appropriate to regard to required reply as having been provided, and to grant the requested relief under 37 CFR 1.137(b).

Petition Under 37 CFR 1.47(a)

In a Decision mailed on 16 August 2010, the renewed petition under 37 CFR 1.47(a) filed on 17 June 2010 was dismissed, without prejudice, because requirement (2) had not been satisfied.

In response, petitioner now has provided a "Declaration of HaiYan Wang," who describes efforts undertaken to obtain the execution of the application by non-signing inventors Ming Yang and Yuhai Shi, and who introduces signed statements of express refusal by each of Mr. Yang and Mr. Shi. In view of the evidence now of record, it would be appropriate to conclude that requirement (2) now has been satisfied. Accordingly, all of the requirements for relief under 37 CFR 1.47(a) now have been satisfied.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to each non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **17 May 2010**. The electronic records of the USPTO (PALM) will be updated to show that the application has been revived (no longer stands abandoned).

/George Dombroske/
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Mr. Yuhai Shi
Rm. 1307, Bldg. 1, Xhibianmen East
Xicheng District
Beijing 100045
CHINA

MAILED
AUG 30 2011
PCT LEGAL ADMINISTRATION

In re Application of
Sun et al.
Application No.: 11/813,206
PCT No.: PCT/CN2006/002420
Int. Filing Date: 18 September 2006
Priority Date: N/A
Attorney Docket No.: 118626-003; 39062-00005
For: A Family Of LDPC Codes For Video Broadcasting Applications

Dear Mr. Shi:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Mr. Ming Yang
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Yangfengdian East, Haidian District
Beijing 100038
CHINA

MAILED
AUG 30 2011
PCT LEGAL ADMINISTRATION

In re Application of
Sun et al.
Application No.: 11/813,206
PCT No.: PCT/CN2006/002420
Int. Filing Date: 18 September 2006
Priority Date: N/A
Attorney Docket No.: 118626-003; 39062-00005
For: A Family Of LDPC Codes For Video Broadcasting Applications

Dear Mr. Yang:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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